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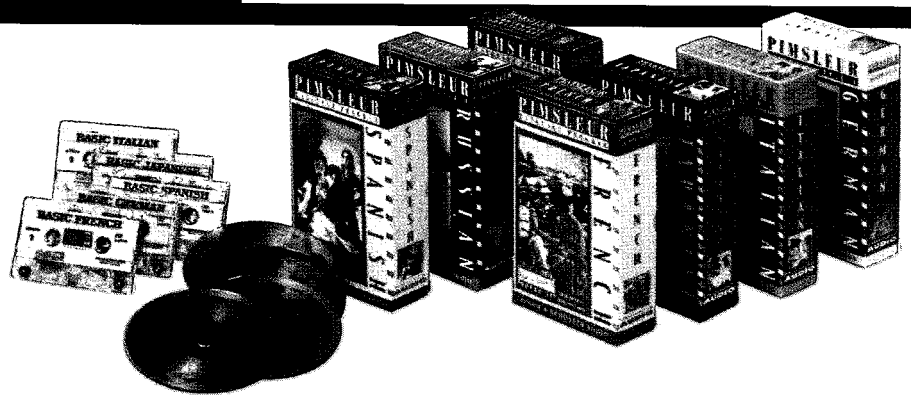

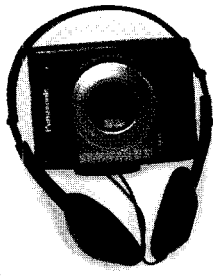

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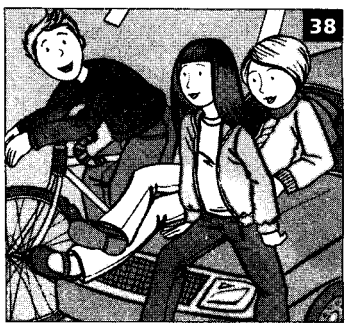

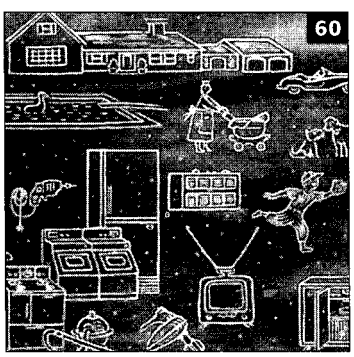

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External Cost

By Virginia Postrel

The dangers of calling everything pollution

Pollution is a growth business. All over America, intellectuals and policy makers are busy discovering, or inventing, new toxic spillovers in desperate need of stringent regulation. Consider a few recent examples:

■ In Portland, Oregon, the problem is aesthetic pollution—specifically, ugly houses. As City Commissioner Charlie Hales wrote in response to a letter from the Portland Metropolitan Association of Realtors, "Nearly every day, I or someone in my office hears a complaint from a citizen about the poor quality of design of new construction....I want to encourage you and your members and your colleagues in the development industry to propose something—anything—that will put a stop to the ugly and stupid houses that we see going up."

To control Portland's architectural pollution, the city council recently voted to regulate the facades of new houses. Windows and doors must take up at least 15 percent of any new house's front. The garage cannot occupy more than half the facade and cannot stick out unless it is less than 40 percent; smaller garages can protrude only six feet. These rules represent a compromise from a proposal that would have also regulated trims, siding types, and roof pitches.

■ In his much-touted book, *Luxury Fever*, economist Robert Frank revives the anti-consumption arguments of Thorstein Veblen and John Kenneth Galbraith, with a new twist: He declares the purchase of increasingly nice goods a form of pollution—a "negative externality," as economists put it. If you see that your neighbor has a fancy barbecue grill, argues Frank, you'll want one too, and you'll make yourself miserable working to get the money to keep up with the Joneses. That you might just think the grill is really cool, that owning one might give you genuine pleasure, is beyond Frank's ken; all he can see is destructive one-upsmanship. "The same arguments that have persuaded economists that effluent taxes are the best way to curb excessive pollution suggest that consumption taxes are the best way to curb conspicuous consumption," he writes.

Frank acknowledges Milton Friedman's argument that consumers know better than bureaucrats how best to spend their money. But, he says, "even Friedman concedes that at least some decisions are *not* best left in the hands of individuals—again, the most commonly cited examples being those with respect to activities that generate pollution. Yet ordinary consumption spending is often *precisely* analogous to activities that generate pollution. When some job seekers buy custom-tailored interview suits, they harm other job seekers in the same way that motorists harm others when they disconnect the catalytic converters on their cars."

■ In an August *Weekly Standard* cover story called "The Case for Censorship," political scientist David Lowenthal invokes the pollution analogy to justify government controls on the mass media: "As a nation we are concerned about pollution, about pure air and water, about the prevention and cure of disease in all its forms. Is there no such thing as moral pollution?"

The Lowenthal article attracted attention because it advocated full-blown, prior-restraint censorship. But the "cultural pollution" metaphor has been buzzing around Washington for some time. At May Senate hearings on media violence, Sen. Sam Brownback (R-Kans.) and Bill Bennett both used the term, and Rowell Huesmann, a University of Michigan psychology and communications professor, drew a Frank-style analogy. He declared that media "producers can ignore what economists might call negative externalities" and called for a tax to offset the profitability of violent programming "much as you might do the same to encourage pollution controls, or other kinds of environmental controls."

Everyone, it seems, has learned one lesson from Economics 101: Some activities have negative spillovers whose full costs aren't borne by the beneficiaries. As Paul Samuelson put it in my old econ textbook (1976 edition, emphasis in the original), "*Wherever there are externalities, a strong case can be made for supplanting complete individualism by some kind of group action....*The reader can think of countless other externalities where sound economics would suggest some limitations on individual freedom in the interest of all." Samuelson had no idea how big "countless" could become. His book is silent on garage doors, fancy barbecue grills, and action movies.

The current rage for externality arguments may seem like a victory for economic reasoning—at least people are taking the *idea* of markets into account—but it actually has little to do with the economic world of trade and tradeoffs. The appeal of the externality claim to antimarket ideologues is that it has absolutely no stopping point. It sees anything that affects anything else as fair game for regulation; any side effect can be called "pollution." Since every action affects people other than the actor, anything someone doesn't like can qualify. The old adage that "your freedom to swing your fist ends where my nose begins" suddenly applies to a world of noses that put Pinocchio to shame.

All this economistic blabber about externalities conveniently ignores one of the central scholarly insights about spillovers and their regulation. Even Frank, with his showy 21 pages of tightly spaced bibliographical references, manages to omit the most cited paper in all of economic literature, an article directly relevant to his topic. That is a telling oversight.

The paper in question, Nobel laureate Ronald Coase's 1960 article, "The Problem of Social Cost," begins with a shocking

observation: "Externalities" are reciprocal. They aren't a matter of physical invasion, with good guys and bad guys, but of unpriced impacts of any sort. We may recognize that an action inflicts a spillover harm, but stopping that action inflicts a different spillover harm.

If I build an ugly house, your aesthetic sensibilities may be offended. But if, to keep the neighborhood to your taste, you stop me from building my house, I lose the benefit of living in it. If I buy a cool barbecue grill, you may feel pressure to do likewise. But if you keep me from buying the grill, or take my money in a consumption tax, I'm hurt by your efforts. The same is true for classic externalities: If a steel mill pollutes the air, it harms those who breathe the pollution. But to shut down the mill (or require controls that increase its costs) harms those who buy and sell steel. In all these cases, an externality exists either way, regardless of who has to bear the costs of adjustment. (There are other aspects to Coase's paper, including, famously, the important issue of transaction costs.)

To deal with externalities, therefore, Coase argues for putting the burden where the cost is least. In a Coasian world, people who don't like other people's garages avert their eyes. People who do not approve of violent movies do not buy tickets for them and, perhaps, do not socialize with others who do. People who covet other people's nice possessions get therapy or religion. In a Coasian world, you cannot simply yell "externality" and get the government to stamp out anything that offends you. You cannot declare that conjectural, unquantified costs, such as aesthetic considerations, are infinite, but real, private market costs, such as more expensive houses, don't count. The burden of proof for regulation is not infinite, but it is high.

By contrast, one reason for regulating stationary sources of gross air pollution, such as steel mills circa 1969, is that such regulation offers large benefits at relatively low costs. It would be extremely difficult for individuals to avoid inhaling the dirty air, compared to the relative ease with which the factory could install smokestack scrubbers or use cleaner coal.

Coase's reasoning is obviously not an absolutist argument for freedom of action. As Frank notes, even strong libertarians usually make exceptions for some sorts of externalities. By clarifying the issues, Coase's utilitarian insight helps separate serious spillovers from mere excuses for bossing people around.

There are certainly other arguments against the infinitely elastic notion of externalities, which, as a theoretical matter, is a prescription for totalitarian control. But Coase's insight explains in a nutshell why peaceful social life, in which all actions are necessarily interconnected, must include a large measure of tolerance—and why spouting economic jargon is no substitute for thinking clearly.

Striving for Parity

The insidious logic behind the SAT's "striver" measure

By Nick Gillespie

For personal reasons, I took a particularly strong interest in the brief but heated controversy over labeling some students who take the SAT as "strivers": Not only would I likely have benefited from such a designation had it existed back when I took the test in the early '80s, but my 5-year-old son stood to be screwed by the same program.

Although the strivers initiative is dead —the head of the College Board, the group that writes and scores the SAT for the Educational Testing Service, has said he will veto any such plan—it's worth reflecting on both the motives behind it and the arguments made in its support. That's because the mindset that produces equity schemes such as the strivers project lingers on and will undoubtedly surface again—and because it's corrosive of a positive dynamic already at work, something that might be called "generational striving."

However high-minded its goals, the strivers tag would have punished the relatively advantaged children of *yesterday*'s strivers. Its larger effect, then, would have been to undermine a system that is exceptionally open to those with ambition, initiative, and ability—and that relies upon one generation's making things easier for the next.

For the past couple of years, researchers at the ETS had been devising a method to predict what a student "should" score, based on more than a dozen factors, including family income, parental education, the socioeconomic mix of the student's high school, and, in one version of the formula, the student's race and ethnicity. If the student scored at least 1,000 on the SAT and outperformed his "predicted" score, he would be labeled a "striver"—someone who exceeds his circumstances and, by implication, is likely to do better than his actual record might indicate. Conversely, the performance of students who scored well, but still within expectations, would be discounted as simply routine.

The strivers project was a combination of well-intentioned social uplift for disadvantaged students and calculated political strategizing aimed at evading the growing number of bans on race-based admissions at selective public universities. The strivers tag, as ETS researchers explained, would "overcome many of the emotional objections to... preferences because it rewards the kind of Horatio Alger behavior that Americans have always valued: hard work, persistence, improving one's lot in life, and overcoming adversity."

I certainly did not come out of anything approaching a *Ragged Dick* background, but I assume I would have been considered a striver. I scored a combined 1,320 on my SAT despite a lower-middle-class background; only one of my parents had graduated high school; and though I attended a parochial high school, it drew a downscale student body, with fewer than half of my classmates even taking the SAT and maybe one-third attending any form of college upon graduation. No doubt, I would have received bonus points for working to pay for my last year of high school (necessitated by a downturn in my parents' finances).

Similarly, I assume that my son would be hard-pressed under a strivers regime to ever distinguish himself. My wife and I both hold Ph.D.s, and our combined

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income puts us in the top quintile for U.S. family income—factors that would presumably take the luster off even a perfect SAT score.

So what was so insidious about the strivers project? Let's leave aside questions raised by the specifics of the moribund plan, such as whether the strivers formula would have told colleges anything that wasn't already evident from other application materials, or whether it's good to nudge students into schools at which they're more likely to perform marginally. (This last point is especially germane regarding non-Asian minority students, since their SAT scores already overpredict their college performance.) Let's even ignore that ETS' response to persistent score disparities on its own exam is to rerig the test, rather than to call for educational reforms.

It's the deeper logic of the plan that was seriously misguided. Supporters assume the United States approaches a caste system. For instance, author Nicholas Lemann, a critic of the SAT in general because he feels it unfairly perpetuates wealth and advantage, nonetheless approved the new initiative. "As long as we're locked into a system of deciding who winds up where according to S.A.T. scores, then the spirit behind the Strivers program is the right one," argued Lemann. "The upper-middle class...has adapted its culture to try to make for the most efficient transmission of high S.A.T. scores between the generations....The people at the top of society have always been good at figuring out how to endow their children with whatever is the prevailing criterion of human worth."

Lemann is correct that the relatively wealthy try to maintain their position. But he's dead wrong when he assumes that the "upper-middle class" and the "people at the top of society" are a stable group. Economic mobility is the rule and not the exception in the United States. Many—if not most—American families, even affluent ones, can trace themselves back to relative poverty within a generation or two.

Fifty years ago, the economist Joseph Schumpeter noted that families in market-based societies typically go "three generations from overalls to overalls," that wealth is both built up and dissipated with perhaps disquieting regularity. As most longitudinal studies of income attest, Schumpeter was basically on the money, except for one important detail: Income tends to ratchet up much more easily than it comes down. An extensive University of Michigan study of more than 50,000 individual taxpayers found that only 5 percent of people who were in the lowest income quintile in 1975 were still there in 1991; the study also reported similar, though less dramatic, upsurges by people in higher income quintiles.

In large part, such fluidity is based not on a single individual's performance (much less his performance on the SAT) but on the efforts of parents who try to give their children advantages they themselves never had. Growing up in a household one generation removed from the slums, my siblings and I found that refrain familiar enough to be the stuff of parody. But it was —and is—far from an empty cliché. The desire to give your children more than you yourself had remains a major motivating factor in American society. By holding against children the advantages parents have worked to give them, programs such as the strivers initiative punish such behavior even as they deny it exists.

In justifying the strivers label, ETS researchers invoked Horatio Alger, who sold millions of books about boys who got rich mostly through luck and the kindness of wealthy strangers. They might have done better to consult instead one of Alger's own influences, Benjamin Franklin. His autobiography is a tale of class ascendancy, too, one that traces a fantastic journey from "Poverty & Obscurity...to a State of Affluence" A rich literary text, Franklin's story is also a practical guide to making it, stressing continuous self-improvement and hard work. Surely it's no accident that this archetypal American narrative includes a long tribute to Franklin's own parents and begins, "Dear Son..." ◆

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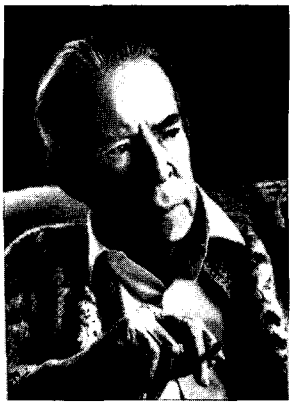

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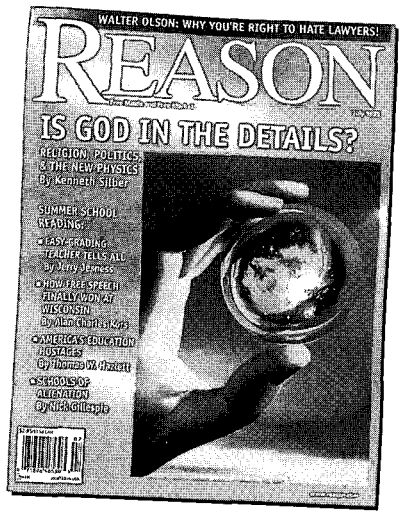
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By Kenneth Silber
SUMMER SCHOOL READING:
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Searching for God

Kenneth Silber's ("Is God in the Details?," July) article is a lucid overview of the current state of a somewhat silly debate: Can science prove the existence of God?

However, Silber fails to mention the most important point. Even if God were discovered in the details, it in no way supports conservative (or liberal) religious beliefs and opinions. Proof of an original watchmaker does nothing to tell us the correct time of day. Perhaps that is why everyone involved in this issue refers to the generic "religion" rather than particular church laws and theologies.

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I appreciate that Silber debunked the "Science Finds God" argument without resorting to the typical mockery of faith and religion in general. If the other discussants conducted themselves this way, it would be a more interesting—and perhaps more productive—discussion.

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Kenneth Silber rightly notes the Christian parallels in relativistic cosmology, a sudden creation from nothing that peters out into a nihilistic nothingness. One parallel that Silber does not touch is that of blasphemy or heresy. A minority of astronomers and physicists are challenging the Big Bang dogma. If the universe is truly infinite (and no observation has disproven this), then all possible configurations must eventually occur. In fact, those configurations must occur an infinite number of times.

The majority view has the advantage that the major media do not report the dissident views of current observational evidence. It is simply a myth that the Big Bang theory is the only model possible. How can one speak intelligently of anthropic principles or the fine-tuning of constants if one cannot speak authoritatively of what is going on inside the sun? Modern physicists are now inventing dark matter, superstrings, and bubble universe theories in endless tiers of unproven hypotheses which they treat as fact. It is always easier to philosophize about something than to go to the telescope and prove it. Perhaps we should leave God out of the discussion until we have learned how to walk.

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As a trained physicist, I would like to offer an alternative explanation for the alleged "fine-tuning" of the universe described by Kenneth Silber. Supposedly the "omega" of the early universe had to be correct to within one quadrillionth of 1 percent for the Big Bang to produce the present universe.

Consider an analogy: Suppose you found a ball resting on a narrow ledge high up on a building. You do a calculation and find that someone would have to throw it exactly right or it would never stay on the ledge. Throw it too hard and it would bounce off the ledge; too soft and it wouldn't make it to the ledge. The probability that someone might throw it exactly right is one in a quadrillion. What would you conclude?

Obviously, somebody opened the window. The ball didn't get there because someone threw it, it got there because someone opened the window and placed it there.

The Big Bang didn't happen. That isn't how the present state of the universe came to be. The very idea is self-contradictory to begin with; but the determination that there was only one chance in 100 quadrillion that a Big Bang could result this way is scientific proof that this isn't what happened—proof as good as any scientific proof can be. Modern physics isn't becoming more "anthropic," it is becoming more irrational.

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I often ask myself what the likes of Robert Bork, or any other theist who understands rudimentary economics, would say if someone said, "Look, modern industrial economies *must* be the result of a divine plan, for the odds of that many production and distribution tasks being done in such a complex yet coordinated fashion are too small to believe that the arrangement of these tasks is not the result of conscious design."

It's easy to show that, starting from preindustrial conditions, the chance that modern, highly specialized, and well-fed cities such as Manhattan or Los Angeles

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(or even, say, Plains, Georgia.) would emerge is inconceivably small. And yet, modern Manhattan, Los Angeles, and Plains function daily with a deep division of labor and successful coordination. No serious economist—or syndicated columnist—has ever argued that the complexity of modern industrial society is "theologically suggestive." To make this argument would be to reveal a complete lack of understanding of Adam Smith's insight that economic coordination is (to borrow a phrase from Adam Ferguson) "the result of human action but not of human design." I'm continually astonished at the capacity of intelligent people to embrace baseless, and often comically wrong, arguments.

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Wouldn't any universe, whether or not it contained life, be so complex that its existence would be statistically improbable? Why then would we expect our universe to be any different? We seem to have no difficulty attributing a lottery win to sheer chance even though the odds against it are enormous. Why must we look for some other explanation for the universe just because the odds against its existence are higher?

I think if someone were to research the history of religion's fractious relationship with science he or she would discover a certain trend: When science discovers some principle that conflicts with prevailing dogma, religion initially responds by either denying the evidence (e.g., evolution or the possibility of multiple universes) or suppressing it (think of Copernicus or current Islamic theocracies). If those approaches fail, religion simply reinvents itself and finds a way to fit the scientific fact or theory in question into its new scheme of thinking. And so biblical "days" come to mean "billions of years" to incorporate the hard evidence about the age of the universe and evolution and so on. The "anthropic principle" seems to be another such move on the part of religionists.

In any case, this constant fuss over the secular and physical worlds on the part of religion is highly suspect. It reeks of a very human desire to direct and control the thinking and actions of others. And that is clearly not the core purpose of any major world religion. Virtually all religions are geared toward achieving a state that transcends the physical and secular world and all of its various laws, natural and otherwise. Science cannot prove or disprove the existence of such a transcendent state any more than it can prove or disprove the existence of a Supreme Being who may or may not have created it.

It is highly unlikely that God will ever be found in the details. I sincerely doubt that we will be able to sneak up on God and prove His existence by turning over rocks—regardless of how big and impressive they are. If God exists, then He is surely beyond such petty, physical concerns.

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Kenneth Silber replies: I appreciate the time and effort of the large number of readers who wrote to REASON, or to me personally, in response to my article. But contrary to Jeremy Dunn, it is incorrect to say that I "rightly [noted] the Christian parallels in relativistic cosmology, a sudden creation from nothing that peters out into a nihilistic nothingness." I noted no such "parallels" and do not find them compelling. Also, readers of Lewis E. Little's letter may be misled into thinking that it's my view that omega (the curvature of space) had to be extremely "fine-tuned" for the Big Bang to produce a viable universe; that's actually a view that I sought to refute.

Public School Scars

One would think that at 72 years of age and after seven children, 13 grandchildren, and one great-grandchild, the wounds would be healed. Not so. Nick Gillespie's editorial ("Schools of Alienation," July) chafed my high school scars until they bled.

I attended a public school of 400 in a Midwestern town of 35,000. As I was neither heavy enough nor quick enough for contact sports, my interests centered around fishing, hunting, golf, choir, drama, and reading. My appearance, use of "50-cent" words, and popularity with the coeds made me a marked man with the jocks and muscle set. But I refused to look down.

As a result they beat me regularly. They slammed my face into a cast-iron radiator, breaking my teeth; they held me down on Main Street and cut off my hair; they cuffed my ear hard enough to break the eardrum; and, of course, they threw me into lockers. Fighting back only increased the severity of the attacks.

All this occurred during a time when millions were fighting a world war (in which I would soon take part) to prove that might does not make right. The school did nothing. My parents did nothing. I did nothing. I wanted to kill them all. I had the guns and the know-how. Fortunately I did not have the courage or insanity or whatever to use them. Besides, I figured God would disapprove.

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Thanks for your articles on the factors behind the Littleton shootings. Mr. Gillespie's resonated deeply with me as a reminder of years of frequent harassment, occasional serious threats, and my vengeful thoughts. Mr. Hazlett ("Hostage Rescue," July) clarified why these conditions are so much more explosive in schools than, say, in the workplace: There's no escape.

If anyone at work treated me the way many of my classmates treated me—to say nothing of how they treated those lower in the pecking order—they'd most likely be fired and possibly arrested. If not, I could seek work elsewhere. Contrast this with the fairly common plight of high school students who are required by law to attend school, surrounded by aggressors whom the schools can't or won't control or remove, and raised by parents who either can't afford private school or don't believe the threats their kids face.

Mr. Hazlett's suggested escape route to nongovernment schools has appeal, and of course there are many reasons beyond an escape from abuse. I would prefer that route for my own children. Yet Mr. Gillespie's appeal for decent schools seems not too far-fetched. Perhaps a place to start is

to hold public high schools to the standards of an adult workplace: Disagreements and dislikes are expected but must be handled with civility; frequent taunts are grounds for discipline, including removal; and threats or violence are met with police arrest. If our so-called leaders can't muster the courage to pursue the idea on moral grounds, perhaps they could accept it as vocational training.

I'm considered quite imaginative, but as a teenager I could barely foresee the long future after high school when I'd be free of daily harassment. Perhaps the hate-filled young men in Colorado could not foresee it at all.

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Chain of Complicity

Texas teacher Jerry Jesness points out what doubtless is the most pressing issue in modern public school education ("Why Johnny Can't Fail," July). A host of reforms have been proposed to improve government schools. But almost none of them deal with the fact that there is enormous pressure on teachers in all states, from all directions, to wildly exaggerate how much their students have learned.

This "grade inflation" provides a subtle and painless, but nonetheless effective, cover-up for unwarranted promotion. Students are regularly advanced to the next grade or course without anyone being embarrassed by having to admit that they learned little in the past.

If public school educators and officials and their education professor mentors read Jesness' article, doubtless most of them would object to his depiction of this "reign of mediocrity" in the schools as excessive, imaginary, and curmudgeonly. Dishonest grading of students is a matter concerning which they adopt a bunker mentality.

But there is compelling evidence in California that Jesness' charges are accurate. Approximately half of the students admitted to California State University campuses on the basis of their high school GPAs are found to be very deficient in English and mathematics skills. Consequently, they must take no-credit, high-school-level remedial courses in these subjects before being allowed to study them at the university level.

The state universities clearly signal high school teachers that they will compensate for their irresponsibility. Education professors also are implicated in perpetuating what Jesness calls the "floating standard" for grading. They indoctrinate future teachers with the theory that grades are evil. They demonstrate their dedication to the theory by giving A's to almost all future teachers.

With the belief that grades are required yet iniquitous, most teachers sense no ethical dilemma in awarding them expediently, i.e., in any manner that makes everyone concerned the happiest. Thus, Jesness goes off track in averring that "there is no reason" there cannot be external, standardized tests "given at the end of certain courses" in school, with university admission "given to students who have scored well." In fact, everything else in his article contradicts that wishful thinking.

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Booster Boosting

Sue Blevins is right about one thing: The government should not mandate the vaccination of children ("Shots in the Dark," July). However, for parents to make informed decisions about whether to have their children vaccinated against diseases such as hepatitis B, they must have accurate information. Unfortunately, Blevins' article appears to be nothing more than rehashed anti-vaccination junk science.

The most telling point about Blevins' article is that although she strongly implies that children face a minimal risk from hepatitis B, readers who might want to find out whether the vaccine has lowered the incidence of the disease have to look elsewhere. In fact, prior to the vaccine's introduction, an estimated 20,000 children contracted hepatitis B annually, with 200 children dying every year from the disease. Since then, incidence in children has fallen 97 percent, and in 1995 only 10 children died after contracting hepatitis B. Although a large part of that decline is due to vaccinating infants whose mothers suffer from hepatitis B, the Centers for Disease Control estimates that in more than half of all childhood cases of hepatitis B the mother does not suffer from the disease.

As Blevins correctly notes, about 300 children have died after receiving the hepatitis B vaccination. Considering that 20 million children have been vaccinated since 1991, that leaves a death rate of about 1 in 80,000. Since the overall mortality rate for children under 5 is about 640 per 80,000, this is a remarkably low incidence that strongly suggests the deaths are unrelated to the vaccine. As Michael Fumento has so aptly outlined in his excellent article on Gulf War Syndrome ("Gulf Lore Syndrome," March 1997), any time a large enough group engages in the same behavior a significant portion of them will subsequently die or suffer from illness. But this does not mean the two are in any way causally connected. In fact, there doesn't seem to be any point in the anti-hepatitis B vaccine claims that hasn't been made ad nauseum by the small minority that believe all vaccines, including the ones for diseases such as diphtheria, are extremely dangerous. Such folks also believe that vaccination has done little or nothing to protect the general population from diseases.

It's one thing to be in favor of liberty and against the state imposing its medical judgment on parents. It's another to base the defense of these views on an edifice of junk science.

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Sue Blevins replies: Brian Carnell is right that for parents to make informed choices about having their children vaccinated, they need accurate information. In the case in my article, Michael and Lorna Belkin were given no information at all about the hepatitis B vaccine. They assumed, as most parents do, that if a vaccine has been approved for newborns by the FDA, recommended by the CDC, and mandated by state governments, then that vaccine must have been adequately tested.

However, when their 5-week-old daughter died shortly after receiving the hepatitis B vaccine, the Belkins began to investigate the "science" the CDC and FDA

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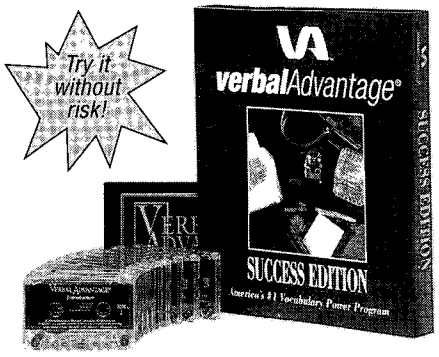

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used to justify mandatory vaccination for infants. Here is what the Belkins, along with other parents and non-government physicians, discovered:

(1) The hepatitis B vaccine was apparently never tested in a randomized, clinical, controlled study of newborns. The Belkins recently joined the National Vaccine Information Center (NVIC) in asking the federal government to open up the hepatitis B vaccine research files. In May NVIC filed a Freedom of Information Act request with the CDC and FDA for copies of all basic scientific research and epidemiological studies that government officials used to justify giving three doses of the hepatitis B vaccine to newborn infants and children under age 14. The CDC denied NVIC's request, claiming it was not in the public's interest, but NVIC is appealing and offering to pay for the data.

(2) Dr. Jane Orient, executive director of the Association of American Physicians and Surgeons, wrote to Health and Human Services Secretary Donna Shalala in August asking for a moratorium on mandatory vaccination for hepatitis B pending further research. Dr. Orient stated that serious adverse effects after receiving the vaccine are reported three times as frequently as cases of hepatitis B in children under 14. Dr. Orient based her analysis on data obtained from the FDA's Vaccine Adverse Event Reporting System (VAERS), which contains about 25,000 reports of adverse reactions associated with the hepatitis B vaccine.

(3) CDC's method of calculating hepatitis B rates is very misleading. The CDC classifies uses these age groups: Less than 1 year old, 1–4 years old, 5–14 years old, and 15–24 years old. According to the CDC's Morbidity and Mortality Weekly Report, in 1996 there were only 54 cases of hepatitis B in the less-than-1-year-old group, 39 cases in the 1–4 group, 186 cases in the 5–14 group, and 1,907 cases in the 15–24 group. This last group includes young adults who may have engaged in high-risk behaviors such as unprotected sex and intravenous drug use.

(4) The incidence of hepatitis B per 100,000 population was declining before the CDC recommended universal vaccination in 1991. The incidence of hepatitis B fell from 10.65 cases per 100,000 in 1987 to 7.14 cases per 100,000 in 1991. The incidence continued to decline to 4.01 cases in 1996. Moreover, although the first hepatitis B vaccine was licensed in 1982, the incidence of reported cases increased between 1982 and 1985.

Brian Carnell is correct in arguing that parents need accurate information, not junk science. Unfortunately, accurate information about the hepatitis B vaccine is being withheld from parents.

Web Design and Cyberramps

I'm curious: How will pornographers make their sites accessible ("Is Your Web Site Accessible?," July)? These proposed rules can only enhance my market value as a Canadian I.T. professional since I'm sure many American Webmasters will simply relocate their pages north of the border. That's the beauty of the Net that control freaks simply cannot understand.

There are a couple of related developments up here in the Great White North: On the plus side, Canada's broadcast regulator announced that it will "not now, not ever" regulate online content. On the minus side, Quebec's Office de la Langue Française is going after the owners of English-only Web pages, arguing that the law requiring French to dominate in business communications applies to online content.

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Adam Clayton Powell III misses the mark somewhat in his criticism of Web accessibility. While I agree with him in opposing government mandates dictating how private citizens and organizations design Web sites, I also favor showing thoughtfulness in Web design as a matter of common courtesy. I don't regard this as being overly difficult if you go into it with the right mindset.

The protocols and languages of the Web were designed from the beginning to be adaptable to a wide variety of special needs. HTML, for instance, was designed to express the logical structure of a document rather than its specific presentation, leaving the details of how to present it up to the user. This allows a properly marked-up HTML document to be presented on media as diverse as a high-end graphical workstation, a portable PalmPilot, a WebTV set-top box, or a speaking text browser for the blind. Full lists of sports scores and stock prices can be presented in text as large as the reader wishes, since there's no fixed page size or page count as with a paper publication, and browsers have a control to let the user change the font size if the original value isn't large enough.

Designers have to work hard to defeat this adaptability. They do it by contorting the markup structure to achieve visual effects, by attempting to force font sizes, line widths, and line break positions, by using text and navigational buttons in the form of graphics with no alternative text, and by creating navigation controls that require less-accessible features like Java, JavaScript, and Shockwave.

With a little bit of thought, the fancy features can be built in ways that degrade gracefully for browsers that don't support them. Such things also improve a site's position in search engines, which have as much trouble indexing a multimedia-heavy site as a handicapped person has reading and navigating it.

Incidentally, the online version of Powell's column in *Reason Online* comes out pretty well on text and speaking browsers (with some very minor quibbles). So your own site designers practice accessibility while publishing columns that criticize the concept.

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Adam Clayton Powell III replies: Daniel Tobias is correct, in my opinion, when he states that using simpler and more accessible sites is thoughtful and almost always good business.

On the Freedom Forum site, for example, we have banished Java and other animated effects because they make the site slower and more difficult to use for those with slow dial-up connections. But it will only promote innovation and progress for all, including for the disabled, if Web designers are free to innovate, even to contort the markup structure, choosing to pay the price of reduced market share or thoughtfulness.

It is time to admit the War on Drugs has failed.

Law enforcement has done its job well — with record seizures, arrests and incarceration. Despite this success, drugs are more available, less expensive and more potent. Law enforcement cannot solve the public health problem of drug abuse.

It is time for an effective strategy that will:

- **Provide sufficient funding for after school programs and activity programs to meet the needs of America's youth.**
- **Provide sufficient funding to make treatment on request a reality within the next three years. Treatment is the most cost-effective way of reducing drug abuse.**
- **Provide sufficient funding to stem the health emergencies of HIV/ AIDS and Hepatitis C. These epidemics threaten not only drug users but all Americans.**
- **Evaluate current drug enforcement spending to ensure it is effective and provide sufficient funding for alternatives to incarceration for non-violent, low-level drug offenders.**
- **Examine the racially disproportionate impact of current drug policy as well as its adverse effects on women, especially poor women and their families.**
- **Hold international and domestic drug law enforcement funding at current levels until they prove their effectiveness. Law enforcement has had massive funding increases over the last two decades without any proof of success.**
- **Undertake an examination of current drug polices to access its impact and develop alternatives where necessary.**

Funding must be shifted away from interdiction and incarceration - towards treatment and prevention.

For a complete copy of the recommendations of the National Coalition for Effective Drug Policies contact us at: 703-354-9050 or info@csdp.org

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Field of Nightmares

By Ryan H. Sager

California's Lawrence Berkeley Laboratory was home to a prominent piece of federally funded junk science. As a result, the lab may be forced to repay more than $800,000 in grant money. The incident involves researcher Robert P. Liburdy, who allegedly falsified some of the earliest findings that electromagnetic fields may cause cancer.

The data, published in two medical journals in 1992, purported to show the first plausible biological mechanism linking electromagnetic field exposure to cancer and other diseases; the reports helped fuel the widespread though unsubstantiated belief that power lines cause health problems (see "Shock Journalism," January 1995). Acting on a tip from a postdoctoral student working with him in 1994, lab administrators alerted the federal Office of Research Integrity (ORI), a branch of the U.S. Department of Health and Human Services, in 1995. In June 1999, after a two-year investigation, the ORI reported that Liburdy had committed "scientific misconduct" by "intentionally falsifying and fabricating" data. The data were used to secure more federal funding.

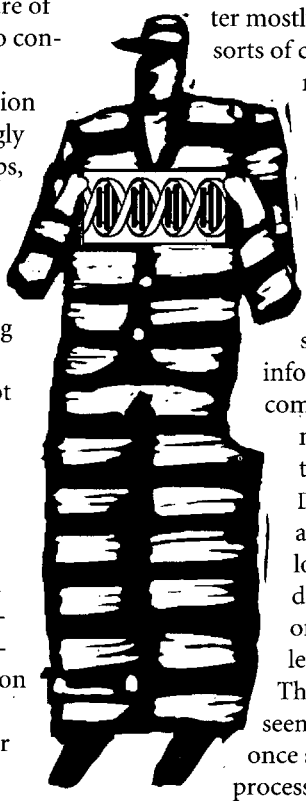
The 51-year-old Liburdy, who resigned from the lab in March after 15 years there, agreed in May to retract three data graphs and to accept a three-year ban on receiving federal research money. He claims that he has taken these steps only to avoid an expensive legal fight. But subsequent investigation into the effects of electromagnetic fields has yielded little evidence to support Liburdy's research.

Blood Drive

By Brian Doherty

On *The X-Files*, if a government agency wanted to create a genetic database from samples of everyone's blood, it would conspire in the utmost secrecy. In the real world, however, such a vampiric scheme gets announced on the front pages of the papers.

That's what happened when Attorney General Janet Reno suggested earlier this year that the federal government should take DNA samples from anyone arrested in the United States—regardless of whether the arrest leads to a conviction. In grand Washington style, she convened an expert panel called the National Commission on the Future of DNA Evidence to consider the matter.



The commission—overwhelmingly composed of cops, judges, and government attorneys—recommended in July against launching Reno's blood drive, though not for reasons that will make civil libertarians breathe a sigh of relief. For instance, the panel failed to draw attention to an important distinction between Reno's proposed register and existing state-level databases: The latter mostly track specific sorts of convicted criminals, such as sex offenders.

Uninterested in issues such as the risk to privacy posed by government control of such sensitive genetic information, the commission instead merely noted that the state-level DNA banks are already backlogged, with hundreds of thousands of blood samples left uncataloged. The implication seemed to be that once samples can be processed more quickly, the commission will have no substantive objections to Reno's plan to draw blood from all arrested individuals.

Balance Sheet

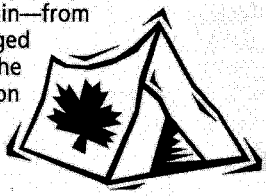
By Jeff A. Taylor

ASSETS

▲ **Safety First.** Nanny-state lobbying group Public Citizen frets about too few workplace inspections. Why? In 1998, the Occupational Safety and Health Administration conducted 33,697 inspections, way down from the high of 89,859 hit in 1975. Yet the 6,026 workplace deaths in 1998 was the lowest number the Bureau of Labor Statistics has ever recorded. Indeed, the number of job-related illnesses and injuries has fallen for five straight years.

▲ **Big Johnson.** Cracks in the drug prohibition monolith show as Gov. Gary Johnson (R-N.M.) floats the idea that it is time to try something else. "I believe that our war on drugs has been a dismal failure," he says. Johnson wants the feds to examine decriminalization and other options before pushing more of the same old dope.

▲ **Northern Light.** Canada's Department of National Defense plans to turn over the operation of its supply depots to private experts. Ultimately, the entire supply chain—from spare parts to fatigues—would be managed privately. A five-to-10-year contract for the work would be worth between $50 million and $100 million. The Canadian armed forces expect to save $60 million to $90 million with the deal.



▲ **Gulf Outing.** A presidential oversight board is the latest in a string of government and private panels that have found nothing to link illnesses suffered by Gulf War vets to their tours of duty. This time, no link was found to depleted uranium used in U.S. munitions. Still, the search for a villain continues.

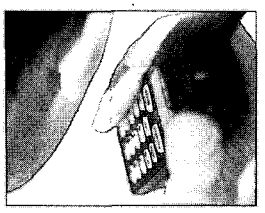
Student Bodies

By Ryan H. Sager

For a half-dozen ersatz college coeds—known only as Alex, Amber, Milla, Robyn, Tamara, and Trixie—the fall semester got off to a very rocky start. These six "students" inhabit a pornographic "Voyeur Dorm" in Tampa, Florida, equipped with 40 cameras that transmit round-the-clock coverage of their every intimate action to subscribers on the World Wide Web. Although no customers actually enter the studio, Tampa's city council is upholding a finding by the

▼ Alan Wrench. Fed Chairman Alan Greenspan admits to tracking the stock market as part of the Federal Reserve's process for deciding when to hike interest rates. This puts the Fed in the position of punishing "too high" stock prices with tight money, dangerous territory for monetary policy and the economy as whole.

▼ Cell Mates. The FCC sides with the FBI and against cellular phone companies in a dispute over the bureau's surveillance ability. A 1994 law requires the feds to work with the industry to make sure the cell network is as tappable as land lines. But what the feds now have is much better than that: cell phones that act as homing beacons.



▼ Chicken o' the Sea. Acting under the never-ratified Law of the Sea Convention, the Clinton administration doubles U.S. jurisdiction off the coasts from 12 to 24 nautical miles. "With this new enforcement tool, we can better protect America's working families against drug trafficking, illegal immigration, and threats to our ocean environment," Vice President Al Gore explains. Can 48—or 1,000—miles be far behind?

▼ Executive Perk. President Clinton has signed 301 executive orders on everything from civil service rules to food labeling, sometimes in direct conflict with laws already on the books. Congressional critics say such orders overstep presidential power, but with another year on the job Clinton is expected to ignore such concerns.

LIABILITIES

zoning board that the site violates local ordinances regarding "adult" businesses and has threatened to lock the doors to Voyeur Dorm. Although the operation has not yet been shut down, the threat hangs in the air.

Over the past few years, Tampa has stepped up its attacks on traditional adult businesses. "We've gone after them vigorously," city council member Bob Buckhorn has told the press. "I don't think they reflect our community values." The Voyeur Dorm, he says, "is not conducive to wholesome living."

Maybe not. But according to Washington, D.C.-based Internet and First Amendment law specialist Robert Corn-Revere, Tampa may just have to get used to the student bodies. Corn-Revere notes that localities have sometimes been given great latitude in regulating what might otherwise be considered protected speech. But that is usually the case only when there are "secondary effects" involved, such as noise or traffic. No such secondary effects exist here, he points out. "The Commerce Clause [banning state interference with interstate trade] has turned out to be a really powerful argument in the Internet context," says Corn-Revere, who believes this to be the first case of its type.

Netscape: Welcome to the Voyeur Dorm
Join The Voyeur Dorm And Participate In The Real Life, Adult-Version of "The Truman Show"
You MUST be 18 years old or older to view this site.
VOYEUR DORM

That theory may soon be put to a test. Voyeur Dorm is going to court to challenge the zoning board's ruling.

Dumb Growth

By Jesse Walker

Last year, when the Tennessee legislature passed the Urban Growth Policy Act—nicknamed the "smart growth" law, after the most recent fad in city planning—it didn't want to leave anything to chance. So it required every city and county in the state to come up with a 20-year growth plan by 2001. The lawmakers assumed that, given the right data, planners could discern local growth needs over the next two decades and guide development in "smart" directions.

The cracks in that scheme are already beginning to show: It turns out that the data are hardly as clear or simple as the legislature apparently assumed. Planners in Hamilton County, for instance, have received figures projecting high population growth in Chattanooga. That may well happen, but at the moment the city's population is actually shrinking. The small towns and unincorporated zones around the city, by contrast, are supposed to grow at a rate much lower than they're currently seeing.

The researchers responsible for the data—a team of figure sorters at the University of Tennessee's Center ▶

SOURCE

"Our writers all support full legal equality and social respect for gays and lesbians, and they also embrace the American traditions of market economics, unfettered debate and limited government," says Paul Varnell, editor of The Independent Gay Forum Web site (**www.indegayforum.org**), launched this past summer. "What unites [us] is the feeling that the old debate between the gay left and anti-gay right is exhausted." Recent contributors to the site include REASON authors Walter Olson, Jonathan Rauch, Rob Blanchard, and Norah Vincent. Recent topics include how liberalized concealed-carry laws might help stop gay bashing, and the unintended consequences of hate crime legislation.

QUOTES

"When you go out to America, America is saying, 'Why can't you all do something?' "
—Attorney General Janet Reno, explaining why Congress should pass President Clinton's gun control proposals, in the August 13 *USA Today*

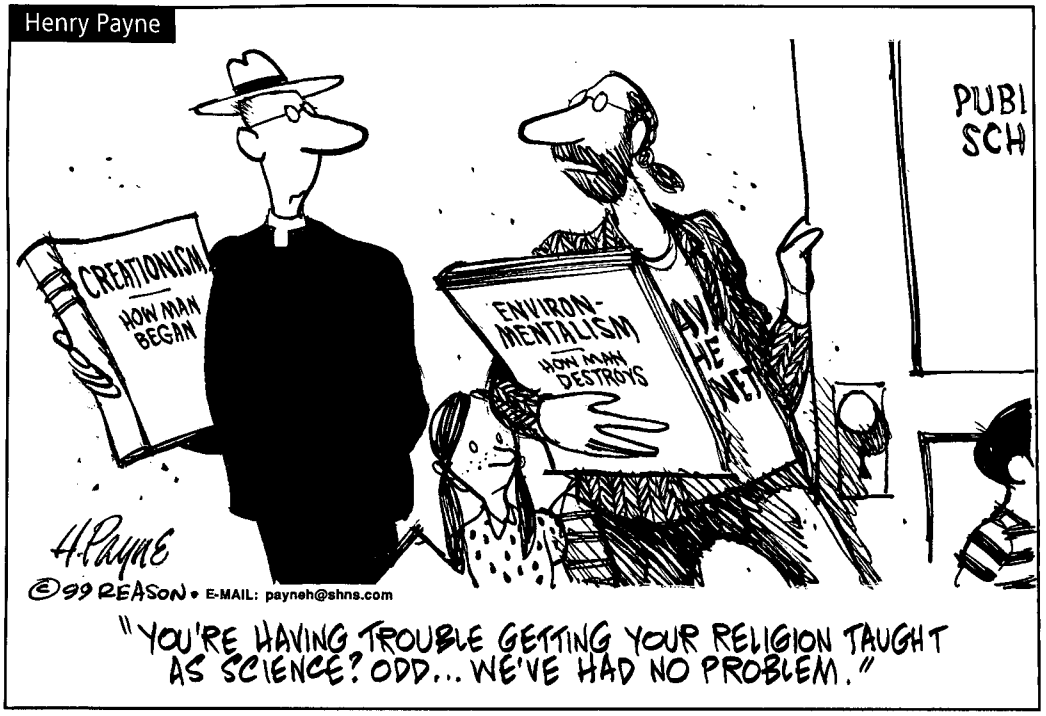
"I have never been bought. I cannot be bought. I am an icon."
—Former U.S. Surgeon General C. Everett Koop in the September 5 *New York Times*, responding to ethical questions about his Web site, **DrKoop.com**, which dispenses health advice and hawks medical products and services

BRICKBATS

♦ After being pulled over while driving in Abington, Massachusetts, Michael Hyde landed in court—on charges of wiretapping. Hyde thought he was being harassed because he had long hair and drove a fancy Porsche. The officers told Hyde his license plate wasn't properly illuminated and that his exhaust was too loud. The stop led to no traffic charges, but Hyde says he taped the police officer harassing him, asking if Hyde had drugs. And that's where the wiretap charge comes in. The police claim Hyde illegally violated the officer's privacy by taping the traffic stop. "Police officers have the same rights as other citizens," said prosecutor Paul Dawley, adding that if the tables were turned and police were caught taping someone without permission, people would be outraged. That seems to ignore the fact that traffic stops are recorded all the time by videotapes mounted in police cruisers. The people stopped are rarely informed that they are being taped.

♦ Want a hunting or fishing license? Well, give us your Social Security number. That's what states are telling people, thanks to federal law. The feds hope to catch deadbeat parents when they come in for licenses. But critics say it's just one more way of keeping tabs on law-abiding citizens.

Henry Payne



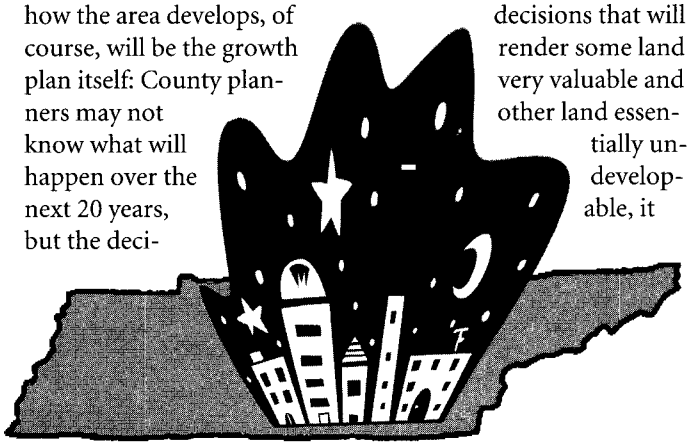
"YOU'RE HAVING TROUBLE GETTING YOUR RELIGION TAUGHT AS SCIENCE? ODD... WE'VE HAD NO PROBLEM."

for Business and Economic Research—have some reasonable-sounding explanations for their projections. It's possible, they suggest, that a suburb that's expanding relatively quickly now will reach a plateau well before 2020.

But that's only one interpretation of the data, Hamilton County Executive Claude Ramsey told the *Chattanooga Times and Free Press* that the numbers "don't make much sense." Another critic, Collegedale Town Manager Bill Magoon, used a blunter word to describe the projections: "crazy."

One important factor in how the area develops, of course, will be the growth plan itself: County planners may not know what will happen over the next 20 years, but the decisions they make now will surely have an effect. If they declare that growth will be concentrated in Chattanooga, they'll put more infrastructure in the city and less outside of it. They'll also let the city annex more land.

That would suit the Chattanooga municipal government, which has an obvious interest in steering development toward the city. (The same city has spent the last year trying to take over its local water company, another useful tool if you want to direct growth.) It would also suit whichever developers are closest to the local government: With planners making decisions that will render some land very valuable and other land essentially undevelopable, it helps to be on the inside track.



In other words, planners can be swayed by local interests, and planners' data aren't always clear. Here's hoping some wise Tennesseans will bury the city's plan in a time capsule, retrieve it 20 years later, and compare it to what actually transpired over the two decades just passed. If anyone's still talking about "smart growth" in 2020, the contrast just might smarten them up.

OK to Drive?

By Jacob Sullum

If you don't know when to say when, a cop will be happy to tell you. In most states, it's illegal to drive with a blood-alcohol concentration (BAC) of 0.10 percent or more, the level the average 170-pound man reaches after drinking a six-pack of beer in two hours.

The Clinton administration wants to take away one of those beers. It supports legislation, a version of which

ARTIFACT

©ARKADY SHAIKHET, PERMISSION OF THE CORCORAN GALLERY

Parallax Views

The image at left looks like a typical example of New Deal photography. It could be a classic still by Dorothea Lange or George W. Ackerman, or a frame from one of Pare Lorenz's federal propaganda films, such as *The Plow that Broke the Plains*. In fact, it's from a parallel school of photography: the Socialist Realist school that dominated imagery in Stalinist Russia at the very time that the New Deal school was flourishing.

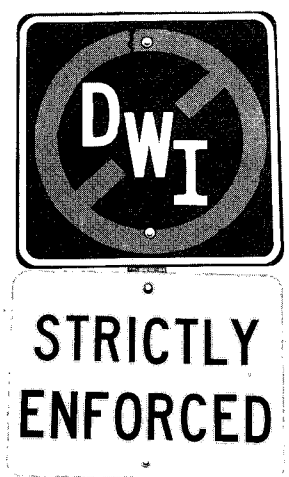
This particular shot, *Commune Dawn, Karelia Region*, was snapped by Arkady Shaikhet in the 1930s; it's one of 200 photos in a remarkable exhibit, "Propaganda and Dreams: Photographing the USSR and the US," curated by Leah Bendavid-Val and most recently displayed in Washington, D.C. Bendavid-Val was struck by how much such photographs had in common, given the vastly different systems that generated them. Her exhibit pairs many similar images—the portrayal of rural continuity, a fascination with hydroelectric projects, the narrative of a communal struggle against poverty—in deliberate provocation.

The systems that created these photos may have been different, but, as Bendavid-Val has noted, the ideas behind the images were similar: The state was the enemy of poverty; heavy industry was its tool in bringing change to the land and hope to its people. Turns out that the modernist state, East and West, had an Ur-tale; this exhibit reveals it.

—Charles Paul Freund

was approved last year by the Senate, that would withhold highway money from states that do not adopt a BAC cutoff of 0.08 percent, which is the standard in 16 states. "If all states lower their BAC to .08," President Clinton has said, "it will result in 600 fewer alcohol-related deaths each year."

But according to a recent report from the General Accounting Office, it's not clear that making this switch would save any lives, let alone 600. "Overall," the GAO says, "the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number and severity of alcohol-related crashes." The report calls the figure cited by Clinton "unfounded" and emphasizes that, as the authors of one study put it, "it is important to interpret estimates of lives saved due to any single law with considerable caution."



The major difficulty in trying to assess the impact of a 0.08 BAC standard is the need to control for other factors, such as increased enforcement, public awareness campaigns, and license revocation laws, that tend to coincide with the shift to a lower limit. The GAO notes various other methodological weaknesses in the seven studies that have been conducted so far, including the choice of comparison states and the indexes used to measure alcohol-related accidents.

The report, available at www.gao.gov/new.items/rc99179.pdf, concludes that the National Highway Traffic Safety Administration has exaggerated the strength of the evidence. In December 1997, when only four studies had been published, the agency declared that "recent research...has been quite conclusive in showing the impaired driving reductions already attributable to .08." Three studies later, according to the GAO, we still have not reached that point.

Police Math

By RiShawn Biddle

Among Bill Clinton's campaign promises in 1992 was to put 100,000 new cops on America's streets by the end of the decade. Seven years later, this plan, like many administration initiatives, rests in tatters even as the president declares it a success.

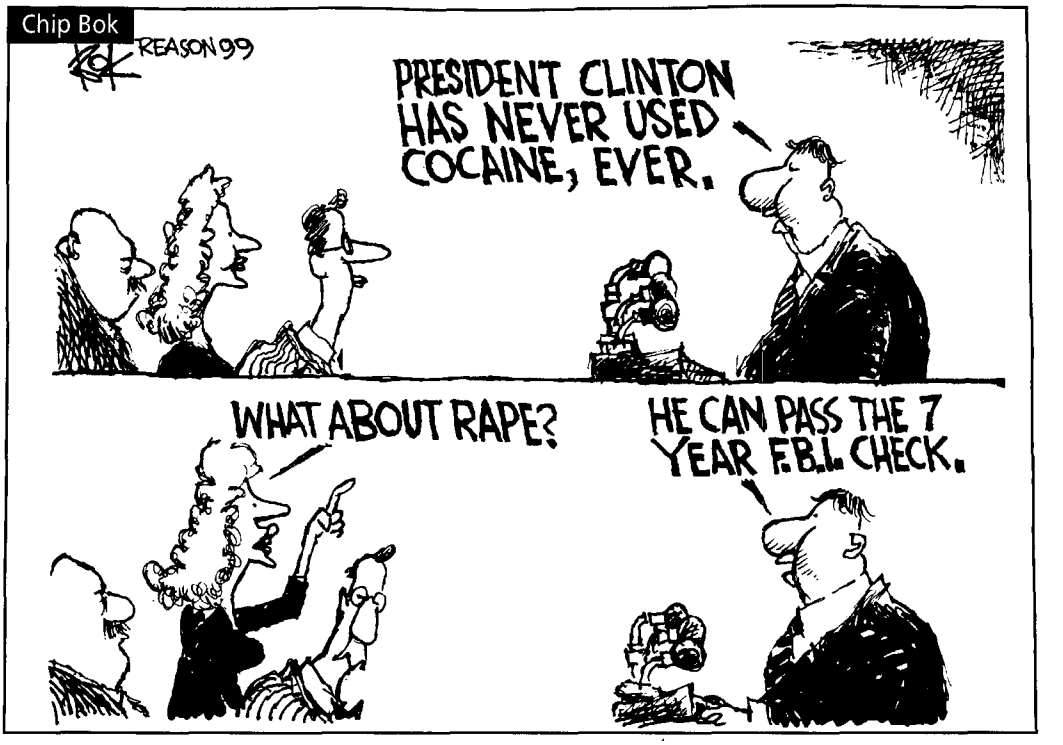
A Department of Justice audit of the Community Oriented Policing Service program (COPS) reveals that far fewer new police officers will be hired than expected. According to the report, only 59,765 officers funded by COPS will actually be on patrol by next year. Amazingly, program officials don't even pretend that they will meet their target: They only plan on *processing applications* for 100,000 new cops by next year. Concluded the DOJ's auditor, "This is significantly different from having 100,000 new officers...actually deployed to the streets."

Even the 59,765 number is ▶

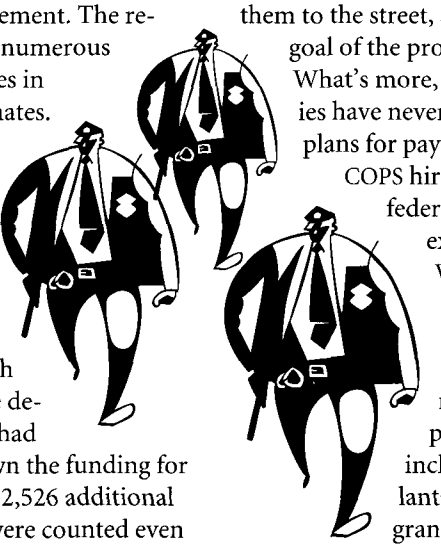
BRICKBATS

◆ Gun owners in Massachusetts have challenged a new law banning practice shooting at targets with human images. The practice outrages lawyers for the state. "By shooting at [human-shaped targets], they're practicing shooting at people," said Assistant Attorney General Edward DeAngelo. Leaving aside the question of why that is necessarily a bad thing, gun owners say the ban violates their free speech rights. For instance, many shooters aim at targets with a photo of Adolf Hitler. "People express disapproval by shooting," said Stephen Halbrook, an attorney for gun owners.

◆ It began with Neil Simon's *The Gingerbread Lady*. It has grown to include William Shakespeare's *Macbeth*. Craig and Cheryl Morgan objected when they found their daughter was exposed to the plays in an elective class at Campus High School in Haysville, Kansas. The parents are being backed by the conservative group Project Educate. It isn't about censorship, says Cindy Duckett, a spokesperson for the group. "It has more to do with what's appropriate and what's quality. And this isn't quality. There are so many other better materials. "



an overstatement. The report noted numerous irregularities in COPS estimates. For instance, officials included 7,722 positions in their total even though local police departments had turned down the funding for them. And 2,526 additional positions were counted even though the grantees have not yet received formal notification.



The audit further revealed that COPS couldn't verify that the new officers were assigned to patrol duties or ensure that local police departments would retain them beyond an initial three-year grant period, the two major concerns of the program's critics. In fact, 75 percent of cities sampled by the audit could not demonstrate that they had pulled officers off desk duty and redeployed them to the street, another goal of the program. What's more, most cities have never drafted plans for paying their COPS hires once federal funding expires. Worse still, the report revealed that 60 municipalities, including Atlanta, used the grants to pay for current staff instead of new hires.

Writer Registration

By Brian Doherty

A federal judge has freed a class of writers from having to register with the government before they can have their say.

Until recently, the Commodity Futures Trading Commission, an independent federal agency that oversees the commodities market, enforced registration requirements on anyone giving advice about futures trading, whether through traditional print publications or the Internet. (Mainstream publications such as *Money*, *Fortune*, and *The Wall Street Journal* were exempt, since the regs applied only to those publications for which giving such advice was a primary profit-making purpose.) Would-be commodity pundits had to register, provide fingerprints, pay a fee, go through a background check, and file reports—and subscriber lists, on occasion—with the CFTC.

Three such writers and five of their customers filed suit challenging the subscriber list requirement, claiming it was an unconstitutional restriction on their freedom to write about whatever they pleased. The D.C.-based Institute for Justice represented them. The writers did not execute trades for their readers or control any reader's money; they merely wrote their opinions about

what might be happening in the markets. Hence, argued the plaintiffs, despite the fact that their subject matter was the highly regulated commodities markets, the government had no proper regulatory interest in their work.

In June, U.S. District Judge Ricardo Urbina decided that the CFTC's requirements amounted to the regulation of speech, rather than the acceptable regulation of a profession. He also noted that giving advice about financial matters is not commercial speech and does not have any less protection against prior restraint than any other kind of speech. The

CFTC regulation was struck down as an "impermissible prior restraint upon the exercise of free speech."

The decision could help stymie future attempts to control speech in the name of day-to-day business regulation. The CFTC filed an appeal in August and the case will now be heard in the D.C. circuit of the U.S. Court of Appeals sometime in spring 2000.

DATA

Making It

By Michael W. Lynch

Three years have passed since Congress helped President Clinton keep his promise to end welfare as we know it. In the meantime, nearly 2 million Americans have left the dole to join someone's payroll. Many Washington-based researchers are busy studying what went wrong—wrong, that is, with predictions that people would be left destitute. Nobody is working harder that the Urban Institute, which is assiduously tracking not only former welfare recipients but also other low-income Americans. Some of its findings have been widely reported, particularly the unsurprising discovery that women with young children leave welfare rolls for entry-level jobs, that they have a hard time coordinating child care, and that the majority feel they are barely getting by. Two other facts turned up by the same research are much less likely to make it into print: Former welfare recipients earn more than similarly situated women who never signed up for the dole, and the overwhelming majority report that life is better in spite of the economic hardships they face.

Life After Welfare

	Wisconsin	Washington	South Carolina	Tennessee	Michigan
Life is better now	69%	54%	77%		
Won't return to welfare	60		59		
Barely making it	69		50		
Problems providing enough food	32	33	17		27
Problems paying utility bills	47	11	37	32	18
Problems paying rent	37		29	34	

Source: "Where are they Now? What States' Studies of People Who Left Tell Us," the Urban Institute (Data not available for each state due to discrepancies in the 11 state studies analyzed.)

Fast Burn

By Mariel Garza

It's not a figment of Y2K mania: Wildfires in the great forests and open spaces of the western United States really *are* getting worse.

For decades, firefighting agencies from the feds on down to local volunteer outfits have aggressively fought back the fires that break out en masse during the summer and autumn months, throwing enough resources behind the battles to make Smokey the Bear breathe easy. While such actions may keep national forests and parks open during tourist season, they also disrupt a natural cleansing cycle. Fires are an integral part of the ecosystem; they enrich and renew the soil and get rid of old and diseased vegetation. Some trees, such as the Lodgepole Pine, can't reproduce without fires.

In a shift of its traditional position, the U.S. Forest Service, which oversees 191 million acres of national forests, now says that quickly snuffing out fires actually increases the danger to national forests in the interior West. In the days before fire-retardant foam and aerial water drops, smaller and more frequent naturally occurring fires would burn unchecked until they ran out of fuel. The ardent fire suppression of the past few decades means that a lot of underbrush, fallen branches, and dead and dying trees that would otherwise burn away every couple of years haven't done so. So now, when the fires do start, there's a huge amount of highly flammable material lying around. That's a recipe for massive, often catastrophic wildfires, the ▶

BRICKBATS

♦ Along with all of the other virtues, one Canadian minister is preaching "the joy of paying taxes." The Rev. Bill Phipps heads the United Church of Canada, the nation's largest Protestant organization. He says Canucks should stop grumbling about their high tax rates. Instead, they "should be joyful" that they are helping to support the nation's social welfare system.

● A group of students has sued Southern Methodist University, seeking damages because a computer course was too hard. All 12 students who took the class failed. SMU offered them all the chance to take the course again, but the students want their money back, and some who claim to have taken time off work for the class want further compensation. Said SMU spokesman Bob Wright, "That's how it is these days. You fail the class, you sue the school."

♦ Police in Manatee County, Florida, aren't too fond of a new law they have to enforce. The county has made it illegal for women to expose more than 75 percent of their breasts in public, and for anyone to show more than two-thirds of his buttocks. Now police are trying to figure out how to measure compliance. "I don't think we'll be tape-measuring," said the sheriff's spokesman. Until they come up with an answer, cops say they will cite only those who are completely uncovered.

—Charles Oliver

Scott Stantis

THE REPUBLICANS WANT TO STEAL OUR SURPLUS AND GIVE IT TO THE SPECIAL INTERESTS!
©1999 THE BIRMINGHAM NEWS COURTESY NEWS SERVICE STANTIS
TAX-PAYER
THE SPECIAL INTERESTS

likes of which have been more common in recent years.

The Forest Service's realization that fire suppression has contributed to fewer but more intense and destructive fires brings the agency more into line hard-core environmentalist thinking, which favors a "let it burn" policy. That's not to say the Forest Service is ceding all control to Mother Nature. The agency is developing a brush-reduction plan for 39 million acres of at-risk forests that would entail setting planned fires known as "controlled burns."

According to recent congressional testimony Barry T. Hill, an official with the U.S. General Accounting Office, the price tag for the plan might run as high as $725 million a year. While such "controlled burns" often have good results, they also present problems of their own: There are the myriad environmental hurdles to consider, including rules about clean air and water. There's also the potential for torching endangered animals. And contrary to their name, controlled burns aren't all that controllable. Intentionally set blazes often jump their lines, scorching numerous acres of land and homes. This Fourth of July weekend, for instance, a controlled burn in California ended up burning 23 houses to the ground.

25 YEARS AGO IN REASON

NOV 1974 NOV 1974 NOV 1974

☛"Victims of rape will no longer be subjected to detailed questioning on their prior sexual history, according to a bill signed into law by California Gov. Ronald Reagan.... The new law recognizes that women, like men, are entitled to a sex life, and that exercising this right should not make them fair game for rapists."

—The Editors, "Milestones"

☛"Unlike T.S. Eliot, I've never been choked up about the cruelty of mingling dull roots with spring rain. But I have and still do grievously suffer every April as stirring memories of my gross income before withholding surge in my manly bosom, while passionate desires of joining a taxpayers' revolt ascend to a frustrated climax."

—Eugene Guccione, "April Gamesmanship"

☛"Since schools are operated as miniature dictatorships in which the school authorities give out the orders and the victims, the students, must unquestioningly follow those orders...there is no question whatsoever that legal rights are totally lacking in these institutions, just as they are also and always lacking in non-scholastic dictatorships."

—Thomas Johnson, "The Blackboard Prison"

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HEAR these famous speakers:

- **A** **Milton Friedman:** *The Role of Government in Our Society* (58 min.)
- **B** **Milton Friedman:** *A Conversation with Milton Friedman* (89 min.)
- **C** **Robert LeFevre:** *Coming Alive–Fundamentals of Libertarianism* (74 min.)
- **D** **Ralph Bradford & Leonard Read:** *Heritage & How to Advance Liberty (84 min.)*
- **E** **Nathaniel Branden:** *How to Communicate Political Ideas* (55 min.)
- **F** **Nathaniel Branden:** *Common Fallacies About Capitalism* (75 min.)
- **G** **Ludwig von Mises:** *The Spirit of the Austrian School of Economics* (33 min.)
- **H** **Ludwig von Mises:** *Why Socialism Always Fails* (86 min.)
- **I** **Ludwig von Mises:** *Liberty and Property* (43 min.)
- **J** **Murray Rothbard:** *How Government Destroys Our Money* (59 min.)
- **K** **Henry Hazlitt & Benjamin Rogge:** *Economics & Economic Freedom* (61 min.)
- **L** **Leonard Read & Dean Russell:** *Need for Free Markets & Less Government* (65 min.)
- **M** **Roger A. Freeman:** *The Effects of Federal Aid to Education* (43 min.)
- **N** **Noam Chomsky:** *Government in the Future* (57 min.)
- **O** **Karl Hess:** *The Future of Civilization* (63 min.)
- **P** **A. Szent-Gyorgyi:** *Some Misplaced Ideas about Democracy* (25 min.)
- **Q** **General Douglas MacArthur:** *Old Soldiers Never Die* (35 min.)
- **R** **Margaret Mead:** *How People Change* (25 min.)
- **S** **John Hospers:** *The Politics of Liberty* (82 min.)
- **T** **Friedrich Hayek:** *The End of the U.S. Dollar Monopoly* (40 min.)
- **U** **Robert Frost:** *An Evening with Robert Frost* (55 min.)
- **V** **Gilbert Highet:** *The Art of Invective/A Bouquet of Poison Ivy* (30 min.)
- **W** **Edwin Newman:** *Decline and Fall of American Language* (55 min.)
- **X** **Murray Rothbard & Joseph R. Peden:** *Libertarianism in American History (88 min.)*
- **Y** **Edward De Bono:** *How to Change Ideas* (55 min.)
- **Z** **Winston Churchill:** *We Await Undismayed the Pending Assault* (20 min.)

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Manly Pursuits

In which our man in Washington considers the challenges facing plumbers, wrestlers, and truck drivers.

By Michael W. Lynch

Date: Fri, Aug 20, 1999 12:30 PM EDT
From: mlynch@reasondc.org
Subj: Poop Scoop

I'm starting to get a bit worried about the $150 I have bet on Al Gore's promotion. His chief pollster, Mark Penn, moved a crew into the office next door a couple months back, and the floor's bathrooms became disaster areas. It could be a case of poor upbringing. Or it could stem from the stress of poring over Gore's numbers.

At any rate, the mess got so bad that the building's general manager posted a memo complaining of "numerous reports of papers in an untidy fashion, toilets remaining unflushed, sinks clogged with paper, etc."

My first reaction was to blame the new tenants, since all was fine until they arrived. Then it occurred to me that summer interns could be at fault. But a little investigation turned up numerous eyewitness accounts of the surveyors' malfeasance.

"There's been documented evidence of them coming out of the throne and leaving [unmentionable debris]," says one second-floor tenant, who complained to the building manager. Another reports that at 5:30 one evening this week he discovered both sit-downs filled to the brim.

"It all started happening when they moved in," the second source adds, a claim bolstered by building staff who not only use the second-floor restrooms but also clean them periodically throughout the day. "They don't flush the toilets. They leave towels strewn everywhere. It's disgusting."

Perhaps the reluctance to flush is an attempt to make up for 97 million gallons of water Gore wasted on his photo-op canoeing trip on the Connecticut River earlier this year.

Date: Wed, Aug 11, 1999 1:30 PM EDT
From: mlynch@reasondc.orrg
Subj: Pinned

Forget women's soccer, with its sports-bra-celebrating stars, in-the-buff Nike ads, and down-to-the-wire shootouts. What about men's wrestling? It, too, offers stripped-down athletes and excitement. Yet instead of being celebrated, it's under assault, according to members of the National Wrestling Coaches Association, which is in town this week for a convention. Some coaches took time to stop by Capitol Hill and brief a handful of congressional staffers on the plight of wrestling and other men's collegiate sports.

The issue is Title IX of the 1972 Education Amendments Act, which prohibits sex or race discrimination in educational programs. Under Department of Education regulations, to avoid expensive lawsuits, a school's gender breakdown of athletes must match that of its overall student body.

It's a basic parity test, or quota, which the less inhibited freely admit. Rep. Maxine Waters (D-Calif.) enthused at a 1997 subcommittee hearing: "It's the biggest quota you have ever seen. It is 50/50. It is a quota—a big round quota."

To get to parity, schools can add women's sports, cut men's, or blend a little of both. Since 1992, just 5,800 female spots have been added, while 20,000 male collegiate athletic opportunities have been lost, according to the Independent Women's Forum, which sponsored the Capitol Hill event.

The morning's presenters had the look of retired warriors, solid with chiseled features. They were deliberate and methodical, with the plodding assurance one might expect from coaches. They prepared handouts. They spoke in historical terms. Wrestling, said incoming NWCA president Roger Reina, who coaches at the University of Pennsylvania, "is woven into the fabric of civilizations worldwide."

The emphasis wasn't solely on wrestling—the problem extends to every male sport except basketball. Sure, 45 wrestling teams have been cut in the last five years. But the feminist battle-axe has also killed 91 track and field programs, 53 golf programs, and 39 tennis programs, all male, since 1993.

It is both a good and bad time for the wrestlers to make their case on the Hill. House Speaker Dennis Hastert, after all, is not only a former teacher but a former wrestling coach. Surely he cares. And Hastert isn't the only man in power who knows the joys of struggling mightily on a padded floor with another man. There's a possibility for a bicameral, bipartisan coalition. Sen. Paul Wellstone (D-Minn.) also wrestled.

Yet the aging wrestlers are up against the myth that America's World Cup soccer champions are Title IX babies. (The team was largely formed in the 1980s, before Title IX was enforced in today's rigid manner.) They are up against that damned sports bra, the WNBA, and the excitement every father has now knowing that his daughters, like his sons, can provide meaningful sporting opportunities. Fathers finally have a way to communicate with their daughters: "Set a pick. Roll to the bucket. I don't care if you have homework,

HENRY PAYNE

get outside and practice your free throws." Equality at last.

Date: Fri, August 27, 1999 2:55 PM
From: mlynch@reasondc.org
Subj: Safety Check

It's August, and D.C. is dead. So I figured I'd make the long haul to Alexandria, Virginia, to check out the tools of what I had always figured would be my trade—trucking.

I had a fortunate childhood—my dad owned a construction company. So unlike other kids who had to satisfy themselves with Tonkas, I got the real thing. Every so often, my dad would arrange for me to spend a day riding shotgun for his lead truck driver Jimmy Mayoral.

As we traveled the Northern California highways and made equipment deliveries, I couldn't think of anything I'd rather do for a living. Shortly after I turned 18, Jimmy taught me how to shift those 13 gears and I got my truck license. But I went to college after that summer, and my career was thrown horribly off path.

Now I had the chance to relive those happy days. It's National Truck Drivers Appreciation week. To celebrate, the American Trucking Association was hosting a truck show and cookout Tuesday for its friends in the media, on Capitol Hill, and in the Department of Transportation.

A dozen or so trucks, red, gold, blue, green, ranging from the very old to the Y2K models, were arrayed on an expansive lawn outside the ATA's headquarters. The idea, said Mike Russell, director of public relations for the 4,000-member ATA, was to display antique and brand-new trucks side by side to show the changes in technology that lead to improved safety.

Some in Washington believe that trucks and truck drivers just aren't safe. They clog up roads and are claimed to have more than their fair share of accidents. Locally, the authorities have taken to pulling trucks over for spot inspections and insisting that they have such things as operating brakes. There's even an effort to give the job of regulating truckers to the safety freaks at the National Highway Traffic Safety Administration. That must scare Russell, who came to the ATA after a year at NHTSA.

He started rattling off what makes the trucks today so much safer: antilock brakes, power steering, better mirrors, and automatic transmissions. "That one has 18 speeds, automatic," he said, pointing to a Peterbuilt tractor hooked to a van. "Big difference from the days of suicide shifters when you had to take both hands off the wheel to shift," he said with great earnestness, squinting in the afternoon sun.

As I wrote this information down in front of an antique, red and black REO dump truck, I recalled old war stories and wondered if automatic transmissions are really the answer to any safety problems. I know the pain of suicide shifters, as I once had to drive a truck with such a transmission from San Diego to Sacramento without any instruction. "You'll figure it out," my buddy told me, as he sent me on my gear-grinding way.

To ease the boredom, she said, her beau's buddy used to set the throttle, burn a joint, slip back into the sleeper cabin, and steer with his feet.

But drivers take their hands off the wheel for other reasons—especially boredom. I thought of a story that a Yale professor who dated a long-haul driver as an undergraduate had told about her time on the road. To ease the boredom, she said, her beau's buddy used to set the throttle, burn a joint, slip back into the sleeper, and steer with his feet.

I climbed up into a Freightliner Classic XL, and company rep Don Shara was on hand to answer all my questions. The first thing I noticed was the spacious luxury. Its sleeper had two bunks, too many speakers to count, a refrigerator, and a place for a TV. "There's 47 pages of options just for cabinetry," Shara told me. Depending on options, he said, the truck's price range was $80,000 to $120,000, of which 12 percent is federal excise taxes that land just "1.5 miles away from here." We talked mileage (5 to 8 miles per gallon), market share (Freightliner is the most popular truck, with 32 percent of the heavy-duty market), and cab over vs. conventional rigs (only 5 percent are cab over).

As I swung down from the beast, a guy came bounding up to the historic tractor next to it. "That's the first truck I ever drove," he said of the 1959 rig, explaining that at 18 he used to hook his GMC Cannonball up to a 42-foot triple-deck trailer and haul hogs from Iowa to New Jersey.

I struck up a conversation with the truck's owner, Fred Craig, who owns a moving company and restores old GMC trucks as a hobby. I spent the next half-hour climbing the three trucks he had on display and discussing the moving business, the difficulty of finding truck drivers (Russell claims there are 80,000 open jobs), and toll roads. One by one, each of the trucks left, and soon Craig and I and his three trucks were all that remained in the field. It was time to return to my college-graduate life.

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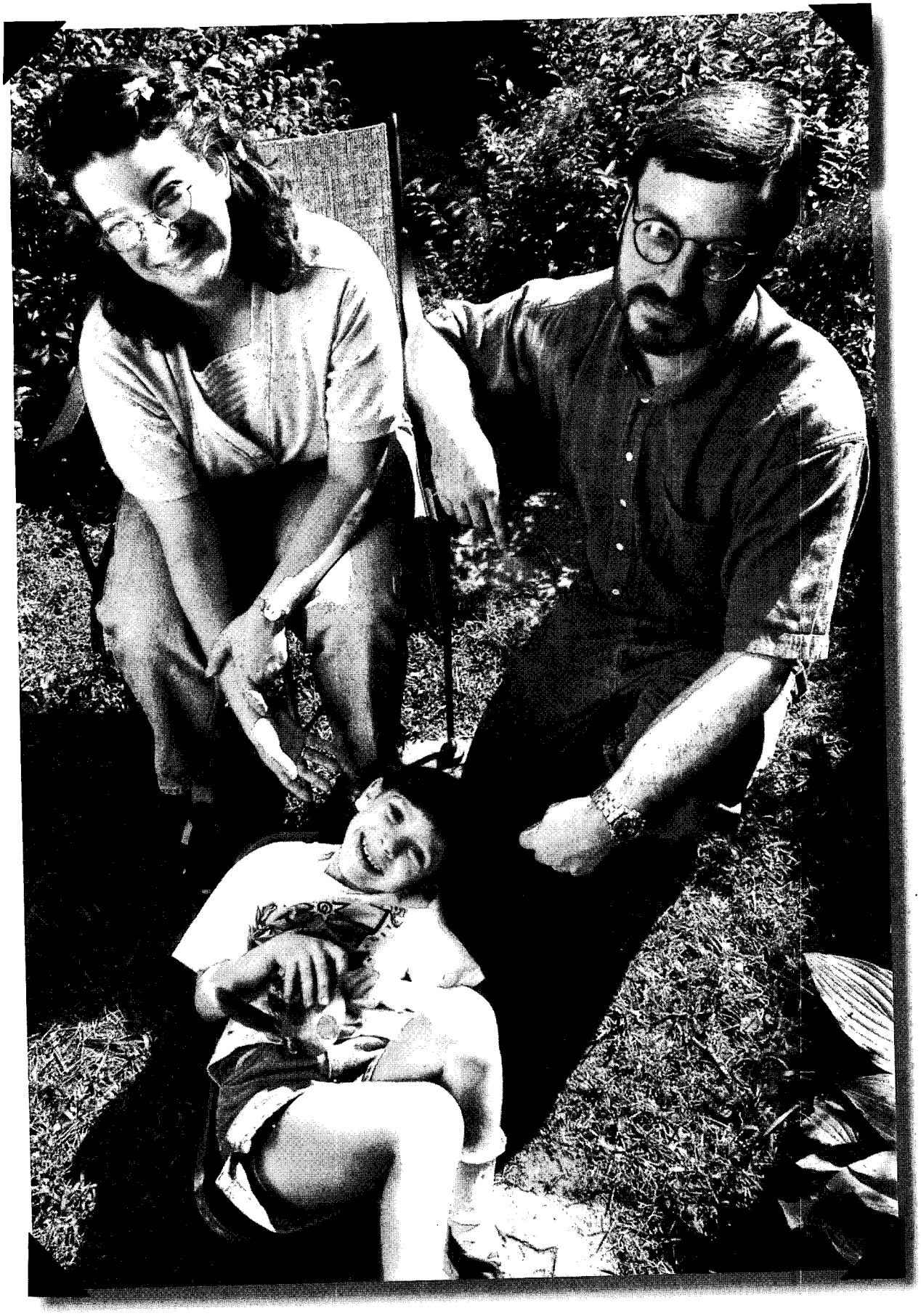

KEN LAX

Adoption Pains

Why does the system make it so hard to give an orphan a home?

On the night of Sunday, June 2, 1996, someone set a fire in the entryway of a two-story apartment building on 17th Avenue in Brooklyn. The fire spread to the walls and ceiling of the first floor, then up the staircase and into the apartment on the left. When the fire trucks arrived at 1:08 a.m., heavy black smoke was billowing from the windows.

"I can vividly remember a woman in the street screaming as we pulled up, 'There are people upstairs,'" says John Kroon, who at the time had been a firefighter for just 15 months. While his colleagues hooked up their hoses and pushed their way into the lobby, Kroon climbed a 24-foot portable ladder to a second-floor window. Breaking through it, he climbed into a darkened, smoke-filled bedroom.

The hose from Kroon's breathing equipment caught on a dresser drawer, yanking off his face mask and pulling the dresser on top of him. As he struggled to put the mask back on, he choked on the acrid smoke and felt the intense heat rise further, suggesting that the room would soon ignite. Moments later he found an unconscious woman on the floor, dragged her to the window, and handed her over to another firefighter on the ladder.

BY JACOB SULLUM

Sure that there must be a child somewhere in the room, because there had been a child guard on the window, Kroon felt around systematically, encountering one stuffed animal after another. Squeezing each object he touched, he finally felt something human, huddled under the bed behind a row of teddy bears and dolls. He pulled out a little girl and handed her through the window.

The woman, 30-year-old Elayna Allen, was taken to Victory Memorial Hospital, where she was pronounced dead at 1:42 a.m. from cardiac arrest brought on by smoke inhalation. Her 3-year-old daughter, Francine, was taken to Jacobi Medical Center in the Bronx, where she was placed in a hyperbaric chamber, which delivers oxygen at high pressure. Both of her lungs had collapsed, and a tube was inserted into her chest to remove the gases that had accumulated there. Then she was transferred to the pediatric intensive care unit at Brooklyn Hospital Center.

"Why it dark?" Francine asked when she woke up. A CT scan and an MRI indicated that her blindness was not caused by brain damage, and her vision returned eventually. A few weeks later she had recovered sufficiently to be transferred to the Rusk Institute of Rehabilitation Medicine at NYU Medical Center in Manhattan. That's where my wife met her.

Michele, then a rabbinical student at the Jewish Theological Seminary, was interning as a chaplain at the hospital. In early July, Francine's maternal grandmother, Evelyn Allen, requested a visit from a Jewish chaplain. Michele began seeing Francine a few times a week, and she started telling me about the charming, lively little girl with the pretty blue eyes.

One night in late July, Michele broached the possibility of adopting Francine. Evelyn, legally blind and in poor health, did not feel up to caring for her; the father's identity was unknown; and no other relative had come forward. Evelyn was looking for a nice Jewish couple to adopt Francine, and she had asked Michele if we might be interested. We were.

Evelyn said we should call Everett Wattley at the New York City Administration for Children's Services. Wattley agreed to send an ACS caseworker to do a home study, which is required by New York and most other states before a child can be placed with adoptive parents. In addition to an inspection of your home, the study involves probing questions about your family history, marital happiness, disciplinary philosophy, ability to deal with stress, and various other matters considered relevant in evaluating your qualifications for parenthood.

At least, that's what the adoption books say. Our experience was a bit different. On a Thursday morning in early August, ACS caseworker Stephen Francois arrived at our apartment on the Upper West Side of Manhattan, late, sweaty, and exhausted. He had taken the wrong subway and walked over from the East Side. We gave him some water, and he took his blood pressure pills. He sat at our dining table, right near the front door, and surveyed the immediate surroundings, pronouncing them clean. Although we were glad to have passed this test, we were disappointed that he didn't make a more thorough inspection, since we had been up half the night sweeping, mopping, and dusting. Francois told us apologetically that he would have to ask us some personal questions. I steeled myself for a harrowing inquisition. He asked us what we did, where we worked, and how much each of us made. He left after about 20 minutes, saying he would call his supervisor, Wattley, and tell him we had checked out.

Later that day, I talked to Wattley, who said that he had received Francois' report but that the adoption was a private matter and should be handled by a private agency. He recommended several. After a few phone calls, I learned that we would need another home study, criminal background checks, and a lawyer. Through the Jewish Child Care Association (JCCA), I ar-

Though healthy and fully recovered, Francine (pictured at age 3) was tied to a wheelchair in the hospital. Most of the other kids were seriously disabled, and it wasn't safe for a 3-year-old to wander around in all that wheelchair traffic.

ranged for an "emergency" home study and picked an attorney whose fees seemed the most reasonable.

Five days later, the JCCA's social worker, Dina Rosenfeld, came to interview us. This time, it was more like the interview described in the adoption books. Rosenfeld, an experienced social worker who teaches at NYU, stayed for two and a half hours, asking detailed, searching questions. We were struck by the fact that ACS, which is supposed to be a neutral overseer, did such a lackadaisical job of investigating us, while the private agency that we hired to do a home study scrutinized us much more carefully. It turns out that you get what you pay for, even if you pay to be interrogated. At the end of the interview, Rosenfeld left us with a stack of forms, saying that the background clearances, checking for criminal records and histories of child abuse, were the most important. That night we scrambled to fill out the forms and get three letters of reference.

We were in a hurry because Francine was ready to be discharged from the hospital, and if she couldn't go home with us, she would have to stay in a foster home. All of us, including the hospital staff, wanted to avoid that, since it would mean that a girl who had just lost her mother and gone from one hospital to another would have to live with strangers before finding a permanent home. Francine already knew Michele and me as the people who took her out for ice cream, brought her little presents, blew bubbles with her in the courtyard, floated bath toys with her in the fountain, and picked tomatoes with her in the hospital garden.

It was sad to see Francine, healthy and fully recovered, tied to a wheelchair with a sheet. The nurses kept her restrained that way because most of the other kids were seriously disabled and needed to use wheelchairs. It wasn't safe for a 3-year-old to wander around in all that traffic.

On Thursday, August 22, we took Francine to see our apartment for the first time. She fell asleep in the car on the way there and awoke barely in time to have milk and cookies before we had to take her back to the hospital. We weren't sure exactly what to tell her. On the one hand, we were buying bedroom furniture for her, and the psychologist at the hospital had said we should be preparing her to go home with us. On the other hand, nothing had been decided legally, and we worried about jumping the gun. The feeling of uncertainty was compounded on September 1, when we arrived at the hospital for a visit and were told that we were no longer allowed to take Francine off hospital grounds. Apparently, the administration was worried that we might abscond with Francine, pretending we were going to Baskin-Robbins when in fact we were heading to Buenos Aires.

Two days later, we had our first hearing in Brooklyn's Kings County Family Court. We were asking the judge to make us Francine's guardians or, failing that, award us temporary custody, so we could take her out of the hospital. Unfortunately, the judge who had awarded temporary guardianship to Evelyn, Stephen Bogacz, was on vacation, and instead we got Judge Paula Hepner, who was inexplicably hostile and suspicious. She insisted that we could not possibly have obtained a home study and background clearances so quickly. Our lawyer, Ben Rosin, assured her that we had requested the home study in early August, with Francine in mind.

Judge Hepner was accusing us of lying, but I couldn't imagine what she thought our motive was. Did she think that Michele had enrolled in rabbinical school so she could work as a chaplain in a hospital where she might find an orphan to adopt?

Hepner was accusing us of lying, but I couldn't imagine what she thought our motive was. Did she think that Michele had enrolled in rabbinical school so she could work as a chaplain in a hospital where she might find an orphan to adopt? Perhaps this strategy deserves a separate chapter in *The Complete Idiot's Guide to Adoption*, between "What You Should Know About Birthmothers" and "Playing the Waiting Game." In any event, there is nothing improper about commissioning a home study before you find a child. "Ideally," advises Colleen Alexander-Roberts in *The Legal Adoption Guide*, "the prospective parents have a home study completed before they locate a baby to adopt." Should this not be possible, however, a home study "can usually be accomplished quickly." Tell it to the judge.

Whatever it was that set Hepner off, it was quickly apparent that she had no intention of letting us take Francine home. She said the JCCA home study was not good enough, that we also needed one from ACS (which had advised us that we needed a private home study). She appointed an attorney named Philip Skittone as Francine's "law guardian," yet another person who was supposed to look after her interests, to evaluate the case and make a recommendation at a hearing three and a half weeks later.

The next day I called Everett Wattley at ACS to find out what happened to Stephen Francois' home study. Wattley promised he would fax the report over to the courthouse in Brooklyn in time for the next hearing.

We arrived for our second family court hearing at 2 p.m. on Friday, September 27, and discovered that Judge Bogacz had never received the ACS report. The ACS's courthouse liaison said the only record the agency had of any report connected with Francine's case had

to do with Bogacz's order for an investigation of Evelyn, back when she was petitioning the court to become Francine's guardian. ACS had just received that (now obsolete) order, which Bogacz had issued three months before. The liaison said Wattley had told him there never was a report on Michele and me. I told Ben, our lawyer, that I had spoken to Wattley repeatedly about the report, and there was no way that there could have been a misunderstanding. Ben called Wattley, who suddenly remembered talking to me but still insisted that there was no report. Finally, we got Francois, the ACS caseworker, to scrawl out a couple of pages and fax them to the courthouse.

Skittone, Francine's law guardian, showed up two and a half hours late. I overheard him telling Evelyn's lawyer and the hospital's lawyer that he was not ready to make any recommendation regarding custody, because he didn't have enough information. It had been nearly a month since the last hearing, and all Skittone had done was talk to a social worker at the hospital on the telephone. He hadn't talked to Michele or me; he hadn't talked to Evelyn; he hadn't talked to anyone at the hospital who had treated or cared for Francine; he hadn't visited the hospital or met Francine. No wonder he didn't have enough information.

When we went into the courtroom, Skittone reiterated his firm position that he was not prepared to take a position. He asked for permission to hire a social worker, at the taxpayers' expense, to help him with the case. Judge Bogacz asked why he needed a social worker. Skittone said a social worker could interview "the child" and other people involved in the case. "Can't you do that?" Bogacz asked. "Yes," Skittone replied, "but I'm not a social worker." Perhaps sensing that his argument needed a little reinforcement, he said the case was "very unique," involving a child "who is different from every other child." He claimed the case was complex and contentious. "No, it isn't," I muttered, and Ben sternly hushed me. The lawyers are supposed to do the talking.

Ben noted that we had background clearances, plus a "glowing report" from the JCCA. Evelyn wanted us to have custody of Francine, and so did the hospital's social worker. He added that Francine had already been in the hospital longer than necessary (her original discharge date had been in mid-August). When it became clear that Bogacz was inclined to grant us temporary custody, the supposedly noncommittal Skittone started arguing against us. It could be confusing for Francine if she went home with us, he said, and then something came up (exactly what he had in mind wasn't clear) that disqualified us as parents. Observing that it could also be confusing for Francine if she had to stay in the hospital, Bogacz gave us temporary custody. Throwing Skittone a bone, he agreed to let him hire a social worker. He also noted that the ACS report seemed a bit sketchy—not surprising, since it had been dashed off a couple of hours before—and ordered a more complete one for the next hearing, which he scheduled for December 2.

So Francine finally came home with us at the end of September 1996. We worried that she would have trouble adjusting, but she turned out to be remarkably resilient. "Cheer up, Francine," we used to say as she walked down the hall, smiling broadly and belting out a mangled song she had halfway learned from a CD.

From time to time, Francine would talk matter-of-factly about her "old Mommy," who "got dead." Once she was walking down Broadway with Michele when she saw the exhaust from a truck and said softly, "I don't like smoke." When Michele asked her why, she said there was a lot of smoke the night her mother died; she remembered seeing Elayna running toward her, then falling down. Michele asked her what happened next. "Look!" Francine replied. "The light changed red!" After a while, it occurred to us that when you're 3 years old you have no idea how life is supposed to be. So far as Francine knew, every little girl lives first with one mother, then with another, and in between stays in a hospital where she's tied to a wheelchair.

About a month after we took Francine out of the hospital, we got a call from Leslie Cummins, the social worker hired by Skittone. We arranged to meet with the two of them at his office in Brooklyn. Skittone's handshake was clammy and flaccid; he talked to Francine in a squeaky voice, mispronouncing words on purpose. ("Would you like a *pwesent*?") He said he used to be an elementary school teacher; we figured his students must have hid the blackboard eraser and made faces behind his back.

While Francine drew pictures, Cummins asked us how she was doing, whether she talked about her mother, how we were getting along with Evelyn, how we handled discipline, what Francine's schedule was like. In contrast to Skittone, with his patronizing smile and gratingly cheerful demeanor, she seemed competent and genuinely nice. Skittone kept interrupting our responses to her questions with questions of his own. We left after an hour and a half, with Skittone declaring us "uniquely well qualified" as parents. He said he hoped we knew that he was just doing his job; he didn't understand why our lawyer seemed so belligerent. I shrugged and kept my mouth shut.

Two weeks later, Cummins visited our apartment for a couple of hours and asked us some more questions. We still hadn't heard from ACS, which was supposed to send another caseworker over for the home study Judge Bogacz had ordered. With a week to go before the next hearing, I called Ben to find out what was going on. He said he'd had a heated conversation with Wattley about the report, then called the judge's office and asked them to issue another order. The next day, we heard from Miguel Nunez, another ACS caseworker

On Wednesday, November 27, Nunez came by and chatted with us for about half an hour. He was very cordial, talking about his own son, a 5-year-old, and the challenges of parenthood. He asked about Francine's medical condition, whether she talked about her mother, how she was adjusting, how our lives had changed since she came to live with us. He walked around the apartment. Nunez said he wasn't sure what the judge was looking for, since someone from ACS had already done a home study. We noted that Francois' report had been written at the last minute. Maybe the judge would prefer a report that was typed, I suggested jokingly. Nunez said handwritten ACS reports were not at all unusual. The agency's budget was tight, and they couldn't afford enough typists. Plus, the job is very depressing,

what with all the abused children. "Working for the city is a joke," he said.

When we arrived for the next hearing, on Monday, December 2, everything seemed to be in order. Evelyn had agreed to transfer the guardianship to us. The ACS report was there. Ben gave us copies of the reports from Skittone and Cummins, which were very favorable. The rows of long wooden benches were full, so we read the reports while sitting on the linoleum floor in the waiting room, our backs against the wall. The session was scheduled to end at 1 p.m., and Skittone did not show up until 12:30. On the way to the courtroom he was buttonholed by Beverly Smith, Judge Bogacz's law secretary.

I could overhear snatches of the conversation, and after a while it became clear that they were discussing our case. They were talking about Evelyn's visitation rights. "Well, I'm not satisfied," I heard Smith say, and I got a sick feeling in my stomach. After Ben conferred with Smith, Skittone, and Evelyn's lawyer, he emerged to say, "There's a little wrinkle." Smith was insisting that a visitation agreement accompany the guardianship order, even though no one had requested one. She said Evelyn should get to visit Francine twice a week and every other Sunday. We should bring Francine out to Brooklyn half the time, and we should have Evelyn stay with us on holidays. We told Ben that we were adopting Francine, not her grandmother. We would continue twice-weekly visits, as we had agreed, and maybe we could come out to Brooklyn once in a while, but not on a regular basis. We both had full-time jobs, and it did not seem like a reasonable request.

Ben went off to negotiate with Smith. While we were waiting, an angry woman started shouting about her child. She was escorted out by a security guard but came back to make another scene. The guard asked her to leave, saying, "This is my house." Losing patience with her, he announced to the crowd, "All right, everybody, it's time for a show." Eventually, the angry woman left, nudged by an older woman who seemed to be a relative. Later another woman came running out of a courtroom, screaming that she had a headache from standing around all day for nothing. I sympathized. I wondered if that would be me after a few more hearings.

Ben came back and said the court was prepared to take Francine away and put her in a foster home if we did not sign a visitation agreement that satisfied Smith. We were shocked that she would make that sort of threat: How could taking Francine away from us possibly be good for her? Skittone walked by and smiled his goofy smile. There was an issue that needed to be resolved, he said, one he'd had in mind all along (this was news to us); our lawyer would explain it to us. We shouldn't worry.

Ultimately, we agreed to twice-weekly visits, plus one Sunday or overnight visit each month. We also agreed to pay for a car service to bring Evelyn from Brooklyn. Evelyn was confused. She said she wanted to arrange visits with us privately, without a court order. She was worried that she wouldn't be able to visit as often as Smith seemed to think she should. We reassured her that she wasn't required to come that often; she just had the right to do so. Since the visitation agreement had to be drawn up and attached to the guardianship order, we had to come back for another hearing.

On Wednesday, January 15, 1997, we arrived in family court at 9:30 a.m. After last-minute wrangling over the details of the visitation agreement, with changes written into the margins and initialed by everyone, we entered the courtroom. In a hearing that took all of two minutes, Bogacz made us Francine's guardians. No one asked any questions. No one testified. We had to wait an hour or so for copies of the guardianship order, which looked like something a child might have produced on a typewriter. We realized it was a copy of Evelyn's guardianship order, with her name whited out and ours written over it in pen. This was what we'd been waiting for. We felt exhausted rather than elated.

That December, we received papers from Ben that needed to be filled out before the adoption could be finalized, including affidavits attesting that we were in good health; Francine's medical history form, to be completed by her doctor; medical history forms for Michele and me, to be completed by our doctors; a financial disclosure affidavit (saying what, if anything, we'd paid or been paid to adopt Francine); a supplemental affidavit (regarding any changes in circumstances since the original filing); a marriage affidavit (attesting that we were, in fact, married); and a criminal background clearance form, including our addresses since 1973, when I was 8 and Michele was 5. We had already supplied much of this information, but we had to do it again because so much time had passed since we filed for adoption. We also had to submit our original marriage certificate, three more letters of reference, and our most recent tax return.

In January 1998, we went to Ben's office to be fingerprinted, which is not as easy as it looks (you have to roll your fingers just so). Three months later, we were visited by a probation officer named Renee. (I don't quite understand why, but the probation department had taken over from ACS.) Renee looked around the place and talked to Francine, who showed off some of her toys. We gave Renee a bunch of documents. She asked us about our

I could overhear snatches of the conversation, and after a while it became clear that they were discussing our case. They were talking about visitation rights for Francine's grandmother. "Well, I'm not satisfied," I heard Smith say, and I got a sick feeling in my stomach.

It took more than two years from the day Francine (pictured at age 5) came to live with us until she was officially our daughter. The Legal Adoption Guide says the average time in New York state is six months. I still have no idea why it took so long.

income, our education, our occupations, our parents' education and occupations, our family histories, our childhoods, how we felt about being married, our approach to discipline. She said our file had been tagged "top priority" and we should expect to hear from the court within a month.

Not quite. In July another probation officer talked to Evelyn. In October one of Ben's paralegals called to tell us we were in the "home stretch," but the court needed a certified copy of Francine's birth certificate, an affidavit stating that her father's identity was unknown, and a report from yet another medical checkup on Francine. In November, the paralegal told us we had a court date for the final step in the adoption process: December 1, 1998.

Now that we were Francine's guardians, the venue had been switched to the New York County Family Court in Manhattan, where we lived. We were in and out of the judge's study in about five minutes. We swore to tell the truth, looked at some papers we'd already signed, confirmed that we had indeed signed them, and that was it. After more than two and a half years of jumping through hoops, it was pretty anticlimactic. "Today you are a daughter," I told Francine. The judge laughed.

After a child is adopted, a new birth certificate is issued—an odd custom that dates back to the days when you were supposed to keep adoption a secret. The birth certificate has the child's new name and lists the adoptive parents as the natural parents. Until history has been rewritten in this fashion (in Francine's case, it took more than six months), you cannot get a new Social Security card for your child, which means that the federal government does not recognize her new name. I discovered this the last time I did our taxes and foolishly tried to claim Francine as a dependent under what I'd been told was now her legal name. Once I realized the problem, I was able to clear it up with one phone call to the Internal Revenue Service. Compared to the adoption system, the IRS is a model of efficiency.

Thanks to a president and Congress bent on subsidizing all good things, I was also able to claim a tax credit for our adoption expenses. In our case, the credit did not work as social engineering, since we decided to adopt before it was approved. But we were happy to claim it, especially since our legal expenses had been much higher than we expected—and would have been higher still, had Ben not given us a steep discount because his initial cost estimate was wildly off.

Which raises the question of whether anyone really understands how this system works. Ben has completed more than 500 adoptions, and when we hired him he seemed to think our case was straightforward: There were no parental rights to sever, we had the consent of the child's guardian, and no one was contesting the adoption. I was an editor with a respectable magazine, and my wife was studying to be a rabbi. We had laudatory references and one favorable report after another. Yet it took more than two years from the day Francine came to live with us until she was officially our daughter. *The Legal Adoption Guide* says the average time in New York state is six months, and if anything our case was simpler than the typical adoption. Ben had thought Francine's adoption would be completed within a year. I still have no idea why it took so long.

I *hesitate to draw* lessons from our experience, since so many people who know a lot more about adoption than we do have written books about it. But the process described in these books is quite different from the one we encountered. Partly this is because the books are aimed mainly at people looking for newborn infants, rather than couples trying to adopt 3-year-old orphans. But it's also because the picture presented in the books is sanitized, perhaps so as not to discourage prospective parents. Again and again, the books say the

adoption process is guided by "the child's best interests." But as we discovered, this is only one of several competing priorities motivating the people who run the system.

Two other goals—more or less universally shared—are making a living and staying out of trouble, which mean different things to different people. Not surprisingly, we found that social workers in private practice were more competent and thorough than government caseworkers, presumably because they have to compete for clients and more is expected of them. In our case, ACS's less-than-diligent approach caused nothing more serious than anxiety and frustration. But now and then, a child dies of neglect or abuse under the agency's watch, sometimes despite clear and repeated warning signs. A few cases of this sort were in the news while we were trying to adopt Francine, and we wondered how the same system that was giving us such a hard time could be so easy on parents who were obviously abusive.

Part of the explanation, I think, is the system's bias against action. No one wants to make a decision that can later be faulted. In our case, that incentive resulted in delays that were not justified by the circumstances. But when a child is in danger, the bias against action can mean that families are kept together longer than they should be. The first sort of failure never makes the news; the second kind sometimes does, but then the blame is apt to fall on the system in general rather than the poor, harried caseworker.

Judges, who make the ultimate decisions about where children should live, are more likely to be blamed when something bad happens. They must live in dread of seeing their names in *The New York Times* because a child died after they awarded custody to the wrong people. Our first family court judge was given the choice of taking that chance or shifting the responsibility to another judge. However slight the risk that Michele and I would turn out to be the next Hedda Nussbaum and Joel Steinberg, it was even less likely that newspapers would run stories about Judge Hepner's decision to leave Francine in the hospital for another month.

Skittone, the lawyer appointed as Francine's law guardian, did not have it in for us, as his favorable report demonstrated. He was just determined to do the job for which he was being paid, even if it wasn't really necessary. It would not be good for business if word got around that adoptions could be completed without the services that he and other courtroom hangers-on provide. As for the law secretary who insisted that we could not become Francine's guardians until we signed a visitation agreement that no else thought was necessary, she seemed to be genuinely concerned that Evelyn (who was, after all, represented by a lawyer) did not correctly perceive her own interests, and so she decided to intervene. Taking Francine away from us may have been an idle threat, since she never seriously doubted that she would get her way.

We became Francine's parents long before the law recognized us as such. But because we were so powerless, we continued to worry that something would go wrong until the day the adoption was finalized. At that point, the system's bias against action started working in our favor.

Now that Francine has been living with us for three years, there's no question that being her parents was worth all the trouble. But if we had known in advance how emotionally grueling the adoption process would be, I doubt that we would have started it. We never would have found out what it was like to have Francine as a daughter.

Francine, now 6, wanders into my office from the living room, where she was watching cartoons, and tries to slip a butterfly ring that she made in summer camp onto my pinkie. It doesn't quite fit. I ask her if she remembers when Michele and I used to visit her in the hospital. "I remember when you guys took me out of the wheelchair, and they said, 'No, no, no,'" she says. "I wanted to go home, so I wouldn't have to be in a wheelchair."

I tell her that I'm writing the story of how we adopted her. I describe in general terms what we had to do. (Although she participated in several of the steps, I'm not sure that she understood they were all part of the same process.) "Why can't you just find a child walking around who lost its parents?" she asks. "Why can't you just take one home?"

Perhaps it is enough to have the consent of the birth mother or, in the case of an orphan, the nearest relative. The government's role would then be limited to verifying the consent and, as with any child, intervening in the event of abuse or neglect.

My initial reaction is that Francine's reform proposal goes too far: There needs to be some assurance that adoptive parents are prepared to care for a child. But then again, if biological parents do not need to be certified by the government, why should there be a different standard for adoptive parents? Perhaps it is enough to have the consent of the birth mother or, in the case of an orphan, the nearest relative. The government's role would then be limited to verifying the consent and, as with any child, intervening in the event of abuse or neglect. A radical idea, perhaps. But compared to the arbitrary, unpredictable, byzantine system that we dealt with, it doesn't seem so crazy.

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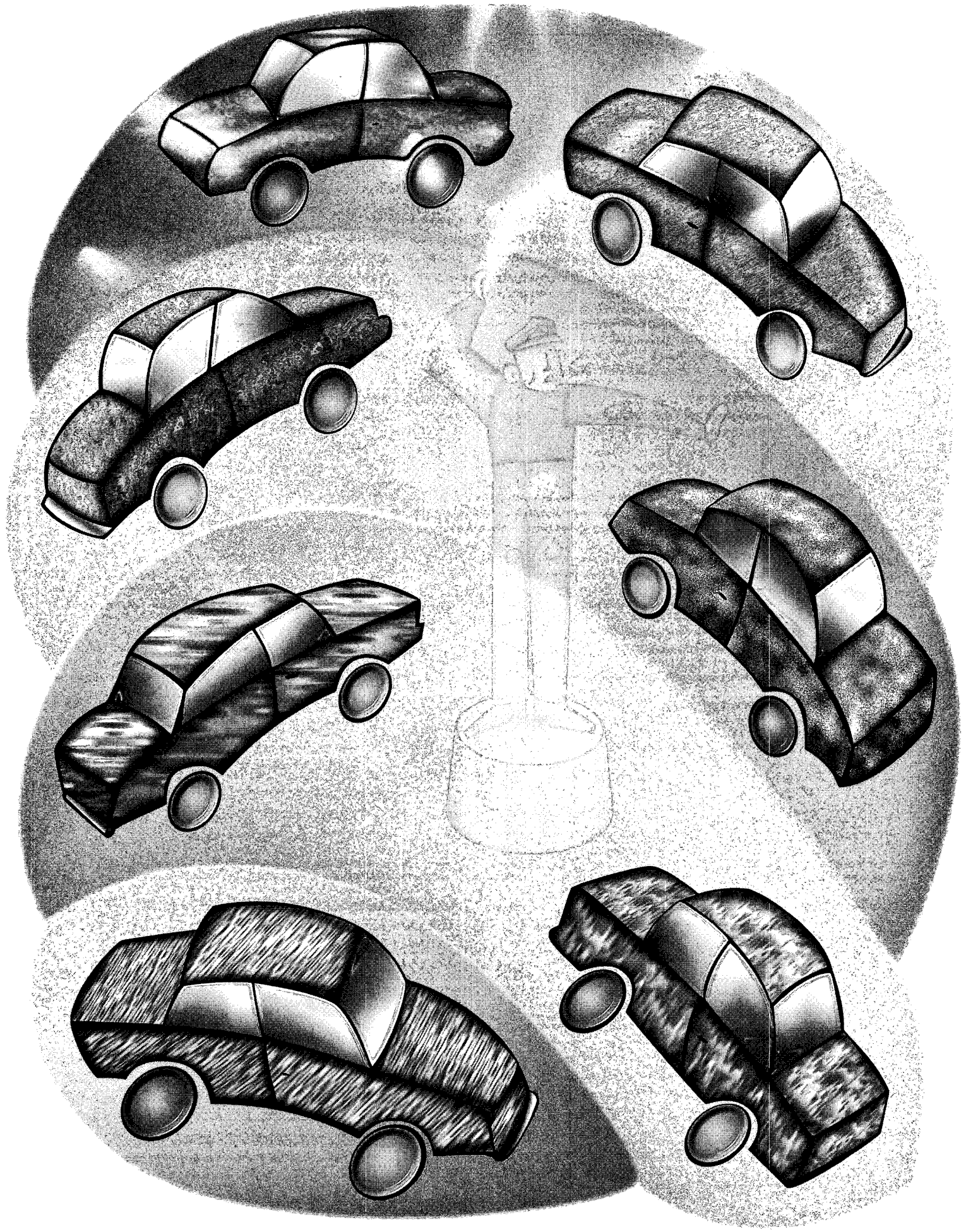


After Socialism

Now the greatest threats to freedom come from those seeking stability and the "one best way."

By Virginia Postrel

In 1947, a small group of classical liberal intellectuals gathered in the Swiss Alps to form an international society whose purpose was "to work out the principles which would secure the preservation of a free society." Named for their meeting place, the Mont Pelerin Society was the brainchild of Friedrich Hayek, the economist and social philosopher whose popular book *The Road to Serfdom* had been a sensation only a few years earlier. The 39 founding members included future Nobel laureate economists Milton Friedman, George Stigler, and Maurice Allais (and Hayek himself) as well as such luminaries as philosophers Karl Popper and Michael Polanyi and Hayek's mentor Ludwig von Mises. Through intellectual camaraderie and rigorous discussion, they sought to achieve "the rebirth of a liberal movement in Europe" and, by implication, the rest of the world.

Fifty-two years later, both the society and the world have changed. Liberal ideals of free minds and free markets have indeed enjoyed a rebirth, not only in Europe but throughout the world. And Mont Pelerin now boasts a membership of nearly 500, including scholars, journalists, think tank researchers, and business people. In late August, those from the Americas met in Vancouver to take up the question, "Are we experiencing 'creeping socialism?'" In 1947, socialism's growth was obvious. In 1999, it was a matter of much debate. In one of the opening talks, REASON Editor Virginia Postrel argued that "socialism" is no longer the major challenge to markets and economic freedom and that classical liberal ideals face opponents with new arguments and different values. The following is a slightly adapted version of her speech.

ELLEN PROCHNIK

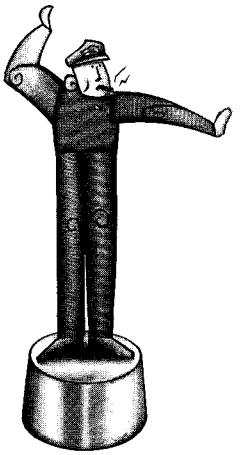
The theme of this conference is "Are we experiencing 'creeping socialism,'" and I am supposed to provide the optimistic answer to that question. The format presumes, however, that it is the right question, which I don't believe it is.

But I'll start with the official question. It immediately raises the issue of what we mean by *socialism*, creeping or otherwise. As a good journalist, I'll begin with an anecdote: The week of our graduation from college in 1982, my husband (who was then my boyfriend) participated in a debate between two teams of graduating seniors. The resolution was something like, "Resolved: Socialism is better than capitalism," and Steve, not surprisingly, was on the anti-socialism side.

One of the critical terms of that debate was the definition of *socialism*. Steve's team argued that socialism was the Soviet Union, and therefore guilty of the terrors of the Soviet system, while the opposing side argued that socialism was Sweden, and therefore innocent of eroding political freedom. Seventeen years later, we are gathered to exam-

ine whether socialism is expanding—and I would argue that the terms of that debate suggest quite clearly that it is not. Neither the Soviet system nor the Swedish system is on the march.

That does not mean we don't have to worry about threats to liberty. It just means we don't have to worry very much about *socialism.* The issues that define our political, intellectual, and cultural coalitions are changing, and we ignore those changes to our peril.



The idea that markets produce not chaos and disruption but positive, emergent order has become common in the same circles where a generation ago socialism, or at least technocratic planning, was all the rage.

***Socialism* is not** simply a synonym for a large state or for government regulation of the economy. In both the nasty Soviet model and the nice Swedish one, it is particularly concerned with some issues and less concerned with others. It may be a fuzzy term, but, like an electron's quantum field, the fuzz forms around some places and not around others. The goal of socialism is a *fairer allocation of economic resources,* which its advocates often claim will also be a less wasteful one. Socialism is about who gets the goods and how. Socialism objects to markets because markets allocate resources in ways socialists believe to be unfair on both counts: both the who and the how.

In its pure form—what Hayek in *The Road to Serfdom* called "hot socialism"—socialism essentially turns the economy into a government monopoly, either through direct state ownership of the means of production or through complete state direction of economic life. Socialist governments nationalize industries. They set up boards governing wages and prices. They direct supply and demand.

Until the mid-1980s, this sort of socialism was common, not only in communist countries but throughout the free world—which is why it made for a good debate topic in 1982. During my teenage years, the American economy itself was marked by wage and price controls and complex schemes to allocate energy supplies; in the 1970s, you could call for the U.S. government to nationalize the oil industry and not be dismissed as a nut. (I would argue, and do in *The Future and Its Enemies,* that the U.S. regulatory system is better understood as technocracy, which substitutes the judgments of supposedly efficient experts for diffuse market decisions, than as socialism. But from time to time, the U.S. government did adopt both the methods and the goals of socialism.) Today, the remnants of hot socialism exist in the very few countries with deliberately socialist regimes, of which North Korea is the purest example, and in a few industries within otherwise nonsocialist countries. But few remnants remain.

Hot socialism disappeared so quickly, both as a policy and as an ideal, that we have forgotten how utterly common its assumptions used to be. That's one reason we can seriously debate whether our contemporary situation represents "creeping socialism," a term that dates back to the 1950s, when socialism really was on the march.

The other sort of "socialism" is what I, like Steve's debating team, would more properly call "social democracy," or the redistributive state. This is the Swedish model, which uses massive redistribution through taxation and subsidies to rearrange economic outcomes. The goal is the same as for hot socialism—a fairer allocation of resources—and the animating ideology is economic egalitarianism.

Having spent some time recently in Sweden, I find it hard to imagine that Swedish socialism is creeping anywhere, except possibly under a rock to hide. The Swedish system is in serious trouble. The Swedish economy is no longer creating jobs—private sector employment has been shrinking for decades, and the public sector can no longer absorb more workers. The country is facing a brain drain. A backlash is developing against refugees and immigrants, who once represented Sweden's commitment to human rights and now are increasingly seen as outsiders consuming a fixed welfare pie. Many Swedes are pessimistic about the future, in large measure because they cannot imagine how their system can survive, yet cannot overcome the political obstacles to changing it.

The "social democracy" form of socialism is difficult to maintain because it runs head on into the political pressure of democracy—which replaces abstract issues of "fairness" with the practical calculations of interest-group politics—and the economic pressure of open markets. The Western democracies, Sweden among them, have not been willing to sacrifice their political freedom or their general prosperity to maintain ever-expanding socialism. They haven't, for instance, kept their people from leaving the country or even, in most cases, from sending their money abroad. That freedom has maintained the political legitimacy of social democracies, but it has undermined their ability to stay socialist.

As Hayek noted in *The Road to Serfdom,* "Many kinds of economic planning are indeed practicable only if the planning authority can effectively shut out all extraneous influences; the result of such planning is therefore inevitably the piling-up of

restrictions on the movements of men and goods." The flip side of Hayek's observation is that countries that allow the more or less free movement of products, people, and financial capital will find that socialism cannot be sustained. A socialist regime depends on monopoly power that cannot survive the pressures of competition from outside. In the postwar period, a combination of liberal idealism, economic pragmatism, and Cold War calculation led not to Hayek's "piling-up of restrictions" but to increasingly free international markets, greater freedom of movement, and, most recently, ever freer capital flows—all enhanced by advances in communications and transportation.

We are not experiencing "creeping socialism." That is not the challenge we face. If you are used to fighting socialism, and have developed your arguments, tactics, and alliances accordingly, it's tempting to define any form of redistribution or regulation as creeping socialism and therefore to declare the expansion of any and all government programs to be socialism. But that sweeping definition leads to political and economic confusion: It destroys the ability to detect threats early, to form alliances and perceive enemies, and to hone arguments.

We must keep in mind what socialism is, and therefore what it is not. Socialism, creeping or galloping, is an ideological concept with a particular sense of what is important. What distinguishes socialism is its appeal to economic fairness. It declares that markets do not allocate wealth and power fairly, and that political processes will do a better job. Socialism is not simply about moving money from the powerless to the powerful—a goal as old as politics—but about flattening the distribution of income and wealth. Pork-barrel spending is not socialism. Farm subsidies are not socialism. "Corporate welfare" is not socialism. These programs are not ideological in nature. They are about competing interest groups.

Socialism is about claims of justice, and it is also about money: about wealth, income, physical and financial capital. It is an ideology based on allocating economic resources. It may try to achieve that goal by nationalizing assets, by command-and-control regulation, or by taxation and redistribution. But the goal is the same: to rearrange society's wealth, generally from the "haves" to the "have nots." Rearranging wealth (or income) is not the only possible ideological goal of economic regulation. It is merely the goal we have become accustomed to since the late 19th century.

Market processes do more than determine who winds up with which resources. That means that socialism is not the only conceivable ideology that might launch an attack on markets and, conversely, that anti-socialist conservatives are not the only possible allies for classical liberals in defense of economic freedom.

Markets have many characteristics. They serve and express the individual pursuit of happiness. They spread ideas. They foment change in the ways people live and work, and in what character traits are valued. They dissolve and recombine existing categories, from artistic genres to occupations. They encourage the constant search for improvements, and they subject new ideas to ruthless, unsentimental testing. Markets evolve through trial and error, experimentation and feedback. They are out of anyone's control, and their results are unpredictable. It is this *dynamism* of markets—their nature as open-ended, decentralized discovery processes—that attracts the greatest ideological opposition today.

The most potent challenge to markets today, and to liberal ideals more generally, is not about fairness. It is about *stability* and *control*—not as choice in our lives as individuals, but as a policy for society as a whole. It is the argument that markets are disruptive and chaotic, that they make the future unpredictable, and that they serve too many diverse values rather than "one best way." The most important challenge to markets today is not the ideology of socialism but the ideology of *stasis*, the notion that the good society is one of stability, predictability, and control. The role of the state, in this view, therefore, is not so much to reallocate wealth as it is to curb, direct, or end unpredictable market evolution.

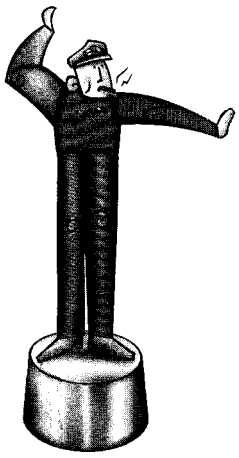
Stasists object to markets because the decentralized evolution of market processes creates not just change but change of a particular sort. By serving the diverse desires of individuals and by rewarding the innovators who find popular improvements, markets constantly upset unitary notions of what the future should be like. Markets don't build a bridge to the future—a path from point A to point B across a scary abyss; they continually add nodes and pathways in a web of many different futures. Market processes make it impossible to make society as a whole adhere to a static ideal—whether that ideal is a traditional way of life, the status quo, or a planner's notion of the one best future.

As a result, we find stasist enemies of markets arrayed across the old left-right spectrum, which we may define by its relation to socialism. Consider CNN's *Crossfire*, a show whose entire premise is the sparring of left and right. In denouncing the dynamic economy, the show's right-wing host, Pat Buchanan, has joined forces on one occasion with left-wing technology critic Jeremy Rifkin and, more recently, with corporate gadfly Ralph Nader. All agree that international trade, technological innovation, global financial markets, corporate reorganization, the expansion of some industries and the contraction of others—and just about every other manifestation of economic competition or creativity—portend a terrible future. They also agree, in principle at least, that the government should do something to curb market dynamism. This is not a socialist call for regulation. It is a stasist one.

The stasist attack on markets, regardless of what part of the old spectrum it may come from, applies two common tactics that are very different from the old arguments for socialism. First, it argues that we should not let people take chances on new ideas that might have negative consequences. This "precautionary principle" is particularly well developed—and increasingly enshrined in policy—in the environmental arena. (See "Precautionary Tale," April.) But it can crop up anywhere. I recently read an article in *Policy*, the magazine of the Centre for Independent Studies in Australia, in which the author distinguished between conservatives like himself and classical liberals on just these grounds: He criticized the Tory government of London for deregulating the color of buses. "The gain remains potential, and

this is the key word," he wrote, while the loss of uniformly red buses is guaranteed.

The precautionary principle counts only the downside of new ideas, not their potential benefits—the potential doesn't count—and it ignores the costs of maintaining the status quo. It puts no value on discovery and learning, either as social processes or as means to individual satisfaction. Market processes simply cannot survive this standard of judgment. It outlaws their inherent uncertainty.



Socialism is dead as an ideal, and dying as a policy. The challenges of the 21st century will be different: They will be to defend the virtues of dynamism and to rally a new coalition on its behalf.

The second stasist

attack on markets has equally devastating potential. This is the argument against externalities. Most of us have been willing to grant the problem of externalities in such areas as air pollution and to look for ways of addressing it with minimal disruption of market processes. But it's not that hard to declare that *every* market action has potentially negative spillover effects. The infinitely elastic version of the externality argument turns the language of market-oriented economics against the essential nature of commerce. Indeed, we increasingly see the externality argument aimed not at producers, the traditional target, but at consumers. My choice of which movies to watch creates cultural pollution. My purchase of convenient packaging produces environmental waste. My house color or garage facade does not please the neighbors. My purchase of consumer goods leads to "luxury fever" that hurts everyone. We are all connected in the marketplace, and therefore, in this view, our actions must be tightly regulated to contain spillovers.

Stasists do not just make tactical left-right alliances on specific issues; they share a worldview and similar rhetoric. On the left, stasist critiques of markets are increasingly replacing traditional distributional arguments. Green demands for "sustainability" and a "steady-state economy" have supplanted socialist concerns for fairness. Critics like Juliet Schor and Robert Frank attack markets for encouraging ever-expanding yuppie consumption, not for immiserating the poor. The sociologist Richard Sennett, who was raised on children's books from the Little Lenin Library, attacks today's "flexible capitalism" not for exploiting the workers or paying poorly but for fostering instability and rewarding personal adaptability. Today's jobs, Sennett complains in *The Corrosion of Character*, do not tell workers who they are and thus threaten "the ability of people to form their characters into sustained narratives." Egalitarian bioethicist Daniel Callahan attacks the push for medical progress, which he finds expressed in the dynamic interplay of markets, technological innovation, and individual patients' desires. He calls for "steady state medicine" and "finite health goals." Although socialized medicine might provide a regulatory vehicle for achieving his goals, Callahan is not making a socialist argument.

Turning to the center of the old spectrum, we find stasists who are, if anything, even more upset about market dynamism than their counterparts to the left and the right—because decentralized discovery processes cannot coexist with technocratic, political control. There are many examples of such objections, which are particularly virulent when Europeans start denouncing the "American" openness of the Internet, but one of the best is from Arthur Schlesinger Jr., who defined the postwar "vital center" in the United States. Writing in the 75th anniversary issue of *Foreign Affairs*, Schlesinger condemns the "onrush of capitalism" for its "disruptive consequences." He warns of dire results from the dynamism of global trade and new technologies: "The computer," he writes, "turns the untrammeled market into a global juggernaut crashing across frontiers, enfeebling national powers of taxation and regulation, undercutting national management of interest rates and exchange rates, widening disparities of wealth both within and between nations, dragging down labor standards, degrading the environment, denying nations the shaping of their own economic destiny, accountable to no one, creating a world economy without a world polity."

Meanwhile, over on the right we find two major objections to market dynamism. Like their counterparts on the left, some on the stasist right attack trade, immigration, technology, large-scale retailers like Wal-Mart, and other elements of market dynamism that upset "settled ways." In these attacks, stasist conservatives often make alliances with environmentalists pursuing the same goals. Sometimes it's easy to apply the old left-right distinction—Pat Buchanan is clearly a man of the right—but not always. I would certainly put Prince Charles on the right—he's a hereditary aristocrat, after all—but many people consider his stasist views, especially his views of technology, to be versions of left-wing environmentalism.

At least in the United States, however, the more common right-wing objection is that by serving diverse individual desires, markets undermine a central notion of the good. Thus some

conservatives, notably David Brooks and Bill Kristol of *The Weekly Standard*, have called for federal programs to serve the ideal of a "national purpose." More often, we hear markets subjected to conservative attack when they produce goods or institutions—from violent movies to domestic-partner benefits to in vitro fertilization—that do not fit conservative goals.

Even on education policy, where the conservative "line" is support for school choice, there are signs of disquiet. Choice is a useful political tool against the teachers unions tied to the Democratic Party and against secular public schools, but its premises of variety, competition, and tolerance cut against many conservatives' views of good education. When California conservative Ron Unz editorialized against vouchers in the left-wing *Nation*, he shocked many on both the left and the right. But he was only expressing a worldview he absorbed over years of reading neoconservative publications: We know the right answer already; there is no need for a discovery process in education.

The good news is that just as the breakdown of socialism has created new alliances against markets, it has also created new alliances in support of them. The idea that markets produce not chaos and disruption but positive, emergent order has become common in the same circles where a generation ago socialism, or at least technocratic planning, was all the rage. Some of you may have seen, for instance, this endorsement of market dynamism from a noted economist: "What's the single most important thing to learn from an economics course today? What I tried to leave my students with is the view that the invisible hand is more powerful than the hidden hand. Things will happen in well-organized efforts without direction, controls, plans. That's the consensus among economists. That's the Hayek legacy." The source of that upbeat assessment of markets was Larry Summers, now U.S. secretary of the treasury and the epitome of a Cambridge economist.

If Schlesinger's hysteria exemplifies the attitudes of centrist stasists, Summers' optimism represents a new centrist coalition on the side of dynamism. That does not mean that Summers is a classical liberal, of course. It simply makes him, and other centrist dynamists, the sort of ally on behalf of markets that anti-socialist conservatives were in an earlier time. The American center (and, I suspect, Britain's New Labour) is full of chastened technocrats who have come to accept the practical limitations of state action and the practical advantages of economic freedom.

There are also many political "moderates"—journalists, scholars, technologists, scientists, artists, and business people, all far less famous than Summers—whose intellectual appreciation for self-organizing systems has come from outside economics: from complexity theory, from the decentralized evolution of the Internet, from the process of scientific discovery, from ecological science, from cross-cultural exchange, from organization theory. These centrist dynamists share an appreciation for dispersed knowledge and trial-and-error evolution that spills over into their attitudes toward markets. They do not always prefer markets to government, but they usually do. They lack the reflex that says a single, government-imposed approach is the best solution to public problems. They are more concerned with finding mechanisms to encourage innovation, competition, choice, and feedback. One thing that makes our political discourse confusing is that the term *moderate* does not distinguish between those whose moderation implies an appreciation for market processes and those whose moderation suggests just the opposite—a long list of schemes for small-scale government tinkering.

Even more striking is a profound split on what used to be the left. While leftists like Sennett are attacking economic dynamism, their erstwhile allies are finding in markets the values of innovation, openness, and choice. The counterculture has morphed into the business culture—to the consternation of both commerce-hating leftists and cultural conservatives. The left that gave us socialism is not the left that gave us personal computers and *Fast Company* magazine. Yet both the PC and America's hot new business magazine were unquestionably created by people who, by both personal history and political agenda, saw themselves as left-wing critics of establishment institutions. Individuals who would have no great love of "markets" if that concept implied static, hierarchical, bureaucratic corporate structures have embraced the idea of markets as open systems that foster diversity and self-expression. The very characteristics that make stasists wary of markets lead an emerging coalition of dynamists to defend them.

On the old political spectrum, socialism defined the left. That meant that the more you opposed socialism, for whatever reason, the further right you were. On the old spectrum, therefore, classical liberals were on the right, which makes us the right wing of the dynamist coalition.

It matters a lot whether we define our central challenge today as opposing socialism or as protecting dynamism. If we declare "the left" our enemies and "the right" our allies, based on anti-socialist assumptions, we will ignore the emerging left-right alliance against markets. We will miss the symbolic and practical importance of such cutting-edge issues as biotechnology, popular culture, international trade, and Internet governance. We will sacrifice whole areas of research and innovation to stay friendly with people who'll agree to cut taxes just a little bit, and only for families with children. We will miss the chance to deepen the appreciation for market processes among people who lack the proper political pedigree. We will sacrifice the future of freedom in order to preserve the habits of the past.

So, yes, I am an optimist about creeping socialism. We must always be vigilant, of course, and we still have many socialist legacies with which to deal—legacies that can provide powerful tools for the partisans of stasis. But socialism is dead as an ideal and dying as a policy. The challenges of the 21st century will be different: They will be to defend the virtues of dynamism and to rally a new coalition on its behalf. How we rise to those challenges will determine whether the next century will mark a new flourishing of liberalism, or yet another long era of twilight struggle.

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Do You Know Where Your Children Are?

Youth curfews are a bad idea whose time has come.

MONROVIA, CALIFORNIA. A 16-year-old en route to a fast-food restaurant is stopped and questioned five times, by five different police officers. Two homeschooled brothers are stopped 20 times as they walk to and from special classes. A 22-year-old woman is questioned twice, once by a plain-clothes officer and once by an officer in uniform, as she tries to use a public telephone. An especially young-looking high school graduate is questioned on at least 10 occasions. Yet none of these people have committed a crime.

Monrovia is one of the many American cities that have imposed curfews on their teenagers over the last several years. A 1997 survey of 347 municipalities by the U.S. Conference of Mayors found that 80 percent had a nighttime youth curfew, up from 70 percent two years earlier. In almost half of those cities, the curfews had been imposed within the previous 10 years.

In 1994, Monrovia adopted a *daytime* curfew, aimed at controlling truancy as well as juvenile crime, and many other cities have followed its lead. Some towns—about 20 percent of those surveyed by the Conference of Mayors—have curfews in both the day and the evening, leaving only a narrow window of time in which young people can wander without fear of the local gendarmes. In those places, teens have to consider the time of day carefully before engaging in as innocent an activity as walking the family dog.

By Margaret Davidson

Some minors, of course, are exempt from the curfews. Some go to schools with year-round schedules, with different students taking their vacations at different times. Others have graduated early or are in work-study programs. Some are homeschooled.

ANGELA MARTINI

Curfew supporters don't deny that these laws restrict people's freedom. The restrictions are worth it, they argue: In exchange for giving up some liberty, citizens have enjoyed more public safety. But the empirical record on this point is mixed at best.

Some are simply tourists, visiting the area with their families.

But even these teenagers can be detained and questioned. In Monrovia, the police chief asked parents to register exempted children with the police department and have them carry a numbered card when out during curfew hours, a request that reminded some citizens of document checks in totalitarian states. The Home School Legal Defense Association has produced a poster that says, "Do daytime curfews work? Ask the experts." Below the text are pictures of Hitler, Stalin, and Lenin.

Such comparisons may be overblown, but curfew opponents are right to emphasize the climate of fear that such restrictions can create. In another incident in Monrovia, two men in an unmarked car followed two teenage girls who were walking to a store. Fearing for their safety, the girls started walking faster. The car stopped, and the men approached the terrified girls on foot. The men turned out to be plain-clothes officers. Not only were the girls scared witless, but their parents raised another concern: Couldn't criminals prey on their children by pretending to be police officers taking them in for curfew violations?

The curfew policy hasn't just increased parental worries. It's increased parental expenses. A minor could have to go to court to prove he has an exemption. And if he loses, the penalties can be stiff. Under Dallas' ordinance, kids and parents can be fined up to $500. In other cities, officials can force teens into counseling or their parents into parenting classes, suspend kids' driver's licenses, or sentence kids to community service work. In California alone, 21,200 young people were arrested for curfew violations in 1996. That's up from 5,400 in 1989.

In January, the Los Angeles County Superior Court struck down Monrovia's daytime curfew, arguing that it contradicted the state truancy law. That decision and the controversy surrounding it have dissuaded some other cities in the area from imposing similar ordinances. But now Monrovia has put a revised ordinance on the books, and in the rest of the country, the fight is raging on. Some legislators are even thinking of following Hawaii's lead, and imposing statewide curfews.

Governments have been imposing curfews for centuries, and not just against teenagers. In the antebellum South, they regulated what times slaves and free blacks could be on the streets. They've also been implemented during times of emergency—during World War II, for instance. America's first wave of juvenile curfew laws took hold in the late 19th century.

What's new is the nostrum's renewed popularity with politicians—and citizens' increased willingness to challenge the curfews in court. A number of lawsuits, often filed with the help of the American Civil Liberties Union, are pending. The most famous is in Washington, D.C., where a law keeps people under 17 at home from 11 p.m. to 6 a.m. on weeknights and from midnight to 6 a.m. on weekends. The plaintiffs have related a series of horror stories about the Washington ordinance. A 17-year-old member of two musical bands said his town's curfew kept him from participating in evening performances. A 15-year-old competitive swimmer noted that he has to leave his house at 4:45 a.m.—while the curfew is in effect—to practice with his team. A 16-year-old complained about being unable to participate in informal study groups after curfew hours. A 14-year-old was upset that he couldn't engage, legally, in a number of social activities, such as stopping to get something to eat after a debate tournament, going to the opera with his 18-year-old sister, and watching late-night movies with his friends. (The last teenager's mother has also joined the lawsuit, arguing that it's her responsibility to set his hours, not the government's.)

Plaintiff Tiana Hutchins would usually get home long before the curfew takes effect. But she was a flag girl with her high school band, and would liked to have socialized with her friends after performances. Even when she wasn't out, the curfew could be a problem: Police once questioned her for talking with a friend in front of her home.

Besides, there's the principle at stake. "It is unfair," Hutchins argues, "to punish good kids who are out trying to make something of themselves when only a small percentage of young people are committing crimes in the city during curfew hours."

Nor are teenagers and their families the only ones affected by the restrictions. Local businesses can also be hurt. The Biograph—a now-defunct movie theater—has also joined the D.C. lawsuit. The Biograph was an art house, the only place in the city where some films could be seen; these were sometimes scheduled as the second film of a double feature, which would typically end too late for patrons to return home before the curfew began. It also had a midnight show on weekends. It's hard to argue that the ordinance alone killed the theater, but it certainly cost it some patrons.

It's difficult to predict the outcome of such

cases. Courts in different parts of the country have come up with very different results when the constitutionality of curfews has been challenged. Thus far, the U.S. Supreme Court has declined to resolve such differences.

Curfew supporters don't deny that these laws restrict people's freedom. The restrictions are worth it, they argue: In exchange for giving up some liberty, citizens have enjoyed more public safety. But the empirical record on this point is mixed at best.

According to the Conference of Mayors study, crime in most cities with curfews went down after the ordinances were imposed. Twenty-six cities with a nighttime but no daytime curfew were able to provide the relevant data; according to those figures, juvenile crime rates declined by an average of 21 percent. Twenty-two cities with both day and night curfews had data to offer; they too boasted a 21 percent decrease.

But curfew opponents have raised questions about this data. Dan Macallair, associate director of the nonprofit Center on Juvenile and Criminal Justice, notes that juvenile crime has been declining in general since 1992. To determine whether curfews were a factor in the drop, the center's Justice Policy Institute examined data from the state of California from 1978 through 1996—the first comprehensive study of the issue.

Their answer was unequivocal. "This study found that youth curfews do not reduce youth crime," Macallair and study co-author Mike Males wrote. "This was true for any race of youth, for any region, for any type of crime. In those few instances in which a significant effect on youth crime was found, curfews were more likely to be associated with an increase in youth crime (not including curfew citations)."

Macallair and Males compared changes in crime rates with changes in curfew-enforcement rates. (Some curfews are barely enforced, so it's not enough to note whether a town simply has a curfew.) To capture local variations, they also compared curfew arrest rates and youth crime rates for the 12 most populous counties in the state and for cities with populations over 100,000 in Los Angeles and Orange counties. They examined the ratio of youth crime rates to adult crime rates for each year, compared with curfew enforcement rates. They found "no support for the proposition that stricter curfew enforcement reduces youth crime either absolutely or relative to adults, by location, or by type of crime."

As for Monrovia: According to the Justice Policy Institute study, that city's curfew was actually associated with crime increases. "Monrovia's school day curfew...has been widely touted as a success, even winning an emotional endorsement from President Clinton during a campaign stop in Monrovia," the report said. But "youth crime skyrocketed by 53% during the school months when the curfew is most vigorously enforced, yet declined by 12% in the summer months when the curfew was not enforced."

Macallair and Males also found evidence of racial bias in enforcement of the Monrovia curfew. While about 55 percent of Monrovia's population aged 10 to 17 is not white, people of color accounted for 68 percent of those arrested for curfew violations. Most major counties did not have such disparities; in those places, the police seemed to be enforcing the curfews evenhandedly. But Monrovia wasn't the only jurisdiction with a worrisome arrest record: In Fresno and Santa Clara counties, for example, young Latinos were five times more likely to be arrested for curfew violations than white teenagers. Young blacks were three times as likely to be arrested.

Juvenile crime isn't even highest during typical evening curfew hours. It's more likely to take place right after school. In the January 1999 issue of *Crime & Delinquency*, Craig Hemmens of Boise State University and Katherine Bennett of Armstrong Atlantic State University reported that less than one-fifth of violent juvenile crime took place during normal curfew hours. Given that, they commented, "reliance on curfews to substantially reduce juvenile crime may be misplaced, at best."

Despite all this evidence, curfews remain popular with politicians around the country. And in the atmosphere that has followed the Littleton shootings, they aren't likely to go away anytime soon.

For Hemmens and Bennett, curfews are simply "the latest fad" in "a field strewn with the remnants of quick fixes to a serious problem." They add: "The recent surge in the popularity of curfew enactment and enforcement and the urgency with which some cities have turned to them, almost as a panacea, suggest that juvenile curfews are a sign of public hysteria rather than a reasoned response to juvenile crime and delinquency."

In other words, curfews are a bad idea whose time has come. ◆

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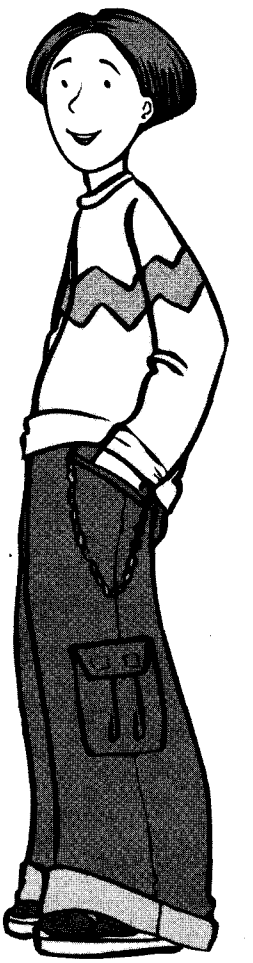


Falling for the Gap

Whatever happened to the "digital divide"?

By Adam Clayton Powell III

The New York Jets have just won the Super Bowl. It must be true: There's a story on the front page of *The New York Times*, and there are color pictures in *Sports Illustrated*. And indeed it is true. Or, rather, it *was* true, a few decades ago. Only a truly inexperienced sports writer would suggest that the New York Jets are the *current* champions of the NFL.

Did you hear that the Dow Jones industrial average has topped 1,000? That, too, is old news, as even the most junior financial writer must know.

How about this one: There is a broad and widening gap on the Internet between white and minority Americans. This familiar claim, often asserted as a fact by policy makers and digerati alike, is also based on old information. Reinforced by White House press releases and presidential candidates' speeches, the idea is so ubiquitous that even the usually well-informed have come to believe that white Americans are online and minorities are not.

Not so. It may have been true in 1996 or 1997, when the Internet was only a few years old as a popular medium and personal computers cost thousands of dollars. But today, with dirt-cheap Internet access and computers approaching the costs of television sets, assertions of a "digital divide" or "racial ravine" are as correct as identifying Joe Namath as football's current MVP or pinning last week's Dow at 1,000.

Misled by stereotypes, misinformed about survey techniques, and misdirected by interest groups, the media have treated the "digital divide" as a crisis requiring government intervention. As a result, billions of dollars might be spent to address needs that no longer exist.

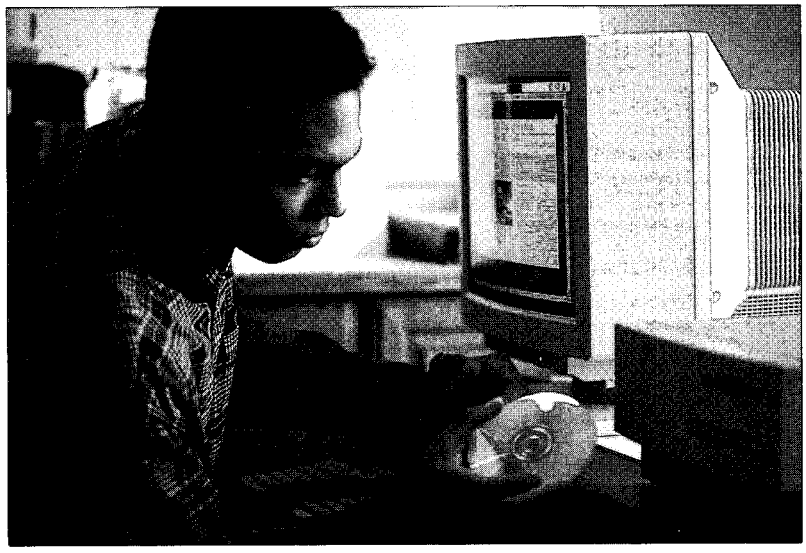
To understand how this happened, start with stereotypes. East Coast journalists typically equate "minority" with "African American," portraying the country as divided between black and white. This view omits the fastest growing minority group, Hispanic Americans, who in just a few years will be the largest minority group in the country.

Confusing "minority" with "African American" also leads journalists and analysts to forget that it is not among whites but among Asian Americans that Internet and computer use are approaching levels of penetration comparable to those of the telephone, television, and indoor plumbing. So even using the old survey data, it was always inaccurate to claim that minority Americans were not online in large numbers.

But the issue of dated information is crucial, especially because a year or two in "Internet time" is the equivalent of a decade for older media. The findings of the most frequently cited "digital divide" study, released last summer by the U.S. Department of Commerce, were presented and widely reported as new information. The study was actually an analysis of surveys in 1998 and earlier. When it was released, more-current information was already available from market research firms, but only a handful of news organizations reported the newer data.

The Commerce Department study made page one headlines with its conclusion that the United States faced a "racial ravine" dividing online white Americans from information-poor minorities. "For many groups, the digital divide has widened as the information 'haves' outpace the 'have nots' in gaining access to electronic resources," it said. "Between 1997 and 1998, the divide between those at the highest and lowest education levels increased 25 percent, and the divide between those at the highest and lowest income levels grew 29 percent."

That sounds impressive, but if you look more closely you may spot a crucial methodological flaw. Among reporters for the major daily newspapers, only John Schwartz of *The Washington Post* noted the problem. "Last year's study did not collect information about out-of-home access," wrote Schwartz. "It is not possible, therefore, to say whether the digital divide is growing based on access from all places." In other words, the Commerce Department's claim of a "widened" gap was not supported by the data it cited, because the surveys asked different



Digitial Doubts: The most recent data dispel notions of a computer "racial ravine" requiring government intervention.

questions from year to year.

"We never stated that we have any information about widening with regard to anywhere access," says Larry Irving, who directed the government study before he resigned as assistant secretary of commerce. "But certainly we can prove the in-home access gap is widening."

Yet according to every survey taken in the last few years, Americans get their online access at work and at school in far larger numbers than at home. According to *The Internet News Audience Goes Ordinary*, a 1999 report from the Pew Research Center for the People and the Press, 62 percent of employed Americans go online through their jobs, and 75 percent of students go online from their schools. The Commerce Department study reported only on use of personally owned computers, thus excluding the millions of users (including this writer) who are online every day but do not own a computer. This is like assuming you don't need a driver's license unless you buy a car.

Regardless of whether the questions in the federal survey were correctly phrased, they were asked in 1998. Surveys conducted this year have found not only that minorities are not falling behind but that they are catching up.

"If you missed Christmas [1998], you missed a big surge," says Ekaterina Walsh, author of *The Digital Melting Pot*, a report based on 1999 data collected by Forrester Research of Cambridge, Massachusetts. "Quite a lot of people got cheap PCs. We were surprised ourselves, because we were projecting lower numbers for online penetration and commerce [than the study found]. Even a month made a big difference." Walsh adds that the federal report may undercount or ignore WebTV, which in 1998 was one of the lowest-priced devices enabling consumers to go online.

"I think we did miss a certain amount of information with regard to lower-priced PCs since December," concedes Irving, the former Commerce Department official. But he stands firm on the question of whether the department's study was misleading because it tracked only computer use at home. "No one has been tracking out-of-home access, as far as we know," he says.

Larry Irving, meet Bob Mancuso. Man-

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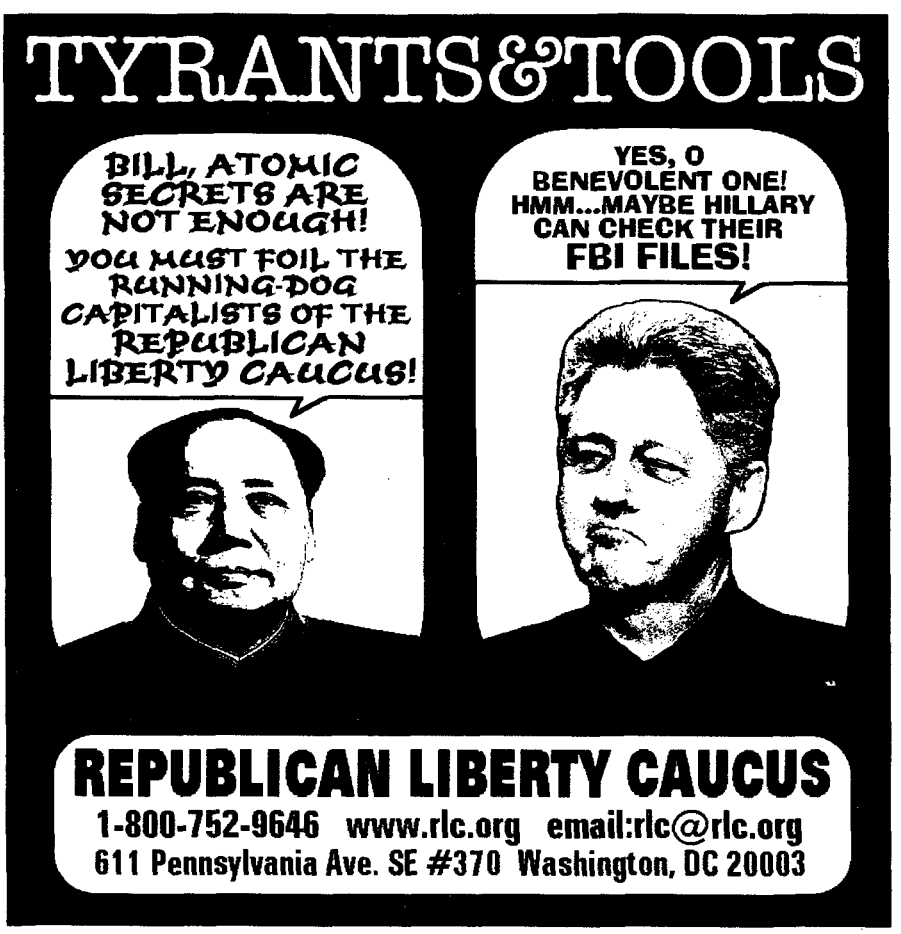
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cuso, marketing manager for Nielsen Media Research in New York, says his firm produces a regular report on out-of-home Internet access and use. Forrester Research also provides tracking data on out-of-home use.

The Orlando Sentinel was one of the few newspapers that noted the problem with focusing exclusively on Internet use at home. The *Sentinel* also reported inconsistencies among the 1994, 1997, and 1998 federal surveys, noting that the earlier surveys did not even ask specifically about computer ownership; they asked whether respondents owned a *modem*. *Sentinel* reporter Maria Padilla also quoted comments from Walsh and other researchers challenging the government's conclusions. "Race has nothing to do with whether you adopt technology or not," Walsh told Padilla.

Donna Hoffman, an associate professor of management at Vanderbilt University who studies Internet access and popularized the term *digital divide*, says racial differences do indeed disappear when you measure access and use, rather than modem or computer ownership. "We do not find gaps in usage, given access," Hoffman says. But she defends the federal study because, however shaky its conclusions, it could have an impact on the policy debate, encouraging government spending on computers for poor people (a policy that Irving also favors). "Getting PCs into the homes of all Americans is critical," she argues.

Hoffman concedes that the research by Nielsen and Forrester, using 1999 data, was more current than her studies and the federal government's, which were based on data from 1998 or earlier. But she says older data are still useful. "We track events over time the better to understand the evolution in access and usage," she says. "We have learned an enormous amount about technology usage by carefully studying these events over time. The fact is that the data show a digital divide for those time points. The data also allow us to understand the likely impact of policy initiatives."

There is no shortage of those initiatives. Within hours of the federal report's release, President Clinton, Vice President Gore, the National Association for the Advancement of Colored People, and the National Urban League all announced programs to buy computers for minority Americans.

But the recent data from Forrester and Nielsen suggest that such programs may be misdirected. According to Forrester, Hispanic Americans were slightly ahead of white Americans in computer use earlier this year, and African Americans were closing the black-white gap at a rate that could lead to parity within the next 12 months. In terms of Internet use, the truly disadvantaged may well be Native Americans, who were not covered by the federal report. Data from the Black College Communication Association and other sources also indicate disparities between educational institutions, including lower Internet access at predominantly minority colleges and universities. This, too, was lost in the focus on home computer ownership.

"Questions of colored folk and cyberspace are often plagued by overstatements of the bad news, understatements of the good news, and misplaced concern about the importance of computers," says Omar Wasow, an MSNBC commentator and founder of BlackPlanet.com and other black-oriented Web sites. "For example, a few years ago people were concerned that women were dramatically underrepresented on the Internet. Yet because women were signing up at America Online and other access providers at an incredible clip, in a few short years women have practically achieved parity in their online access.... The critical statistic is not what are the current rates of usage but rather [what are] the current rates of adoption."

Wasow cites the history of another electronic medium. "We forget that once upon a time televisions were a rare and expensive device that only a few households were lucky enough to possess, and now every home has nearly a TV per person," he says. "Over time, most advanced technologies that are available only to an elite few become widely dispersed among the broader population."

In other words, there is no debate about the television-rich vs. the television-poor in America. Every American who wants one has a television set. And now that some personal computers cost less than TVs and Internet access is cheaper than cable (or even free), the data do indeed show that every American who wants one is getting a PC.

But the media echo chamber has drowned out updated information with old studies and stereotypes. Even informed technology observers have mistaken last summer's federal report for current information. In the cover story for the August issue of *Yahoo Internet Life* magazine, Farai Chideya of ABC News wrote that "the average Web user is different from the average American: more likely to be white or Asian...and less likely to be Latino, black or a blue collar worker." Her source? That Commerce Department report, based on interviews in 1998.

"Although middle-class blacks and other minorities are getting online in substantial numbers, there remains an enormous disparity between whites' computer use and blacks'," wrote the usually perceptive Internet observer Jon Katz in a late-summer column on the Freedom Forum Web site. His source? The new edition of the widely respected book *Technology and the Future*, edited by Albert Teich, the director of science and policy programs at the American Association for the Advancement of Science. And what was the book's source? The Commerce Department study. So Mayor Giuliani, where's the ticker-tape parade for Joe Namath?

The media echo chamber has drowned out updated information with old studies and stereotypes. Even informed technology observers have mistaken last summer's federal report for current information.

Adam Clayton Powell III (apowell@alum.mit.edu) is vice president of technology and programs at the Freedom Forum (www.freedomforum.org).

Taking It to the Streets

Why treating guns like cars might not be such a bad idea.

By David B. Kopel

Should we treat guns like cars? Handgun Control Inc. has been saying so for years, and this summer Vice President Al Gore agreed. "We require a license to drive a car in this nation in order to keep unsafe drivers off the road," Gore said. "As president, I will fight for a national requirement that every state issue photo licenses [for handgun buyers]. We should require a license to own a handgun so people who shouldn't have them can't get them." Prospective licensees should have to "pass a background test and pass a gun safety test." Gore predicted that his plan would cause the gun lobby to "have a fit."

Actually, if Gore follows through on his promise to treat guns like cars, he will oversee the most massive decontrol of firearms in America since 1868, when the 14th Amendment abolished the Southern states' Black Codes, which prevented freedmen from owning guns. Although anti-gun lobbyists who use the car analogy are pushing for additional controls, laws that really did treat guns like cars would be much less restrictive, on the whole, than what we have now.

The first thing to go would be the 1986 federal ban on the manufacture of machine guns for sale to ordinary citizens. We don't ban cars like Porsches just because they are high-powered and can drive much faster than the speed limit. Even though it's a lot easier to go 50 miles per hour over the highway speed limit in a Porsche than in a Hyundai, we let people own any car they want, no matter what its potential for abuse.

After getting rid of the machine gun ban, the next step toward treating cars like guns would be repealing the 1994 federal "assault weapon" ban and its analogs in California, Massachusetts, New Jersey, and a few other jurisdictions. So-called assault weapons are actually ordinary guns that fire just one bullet each time the trigger is pressed, but they happen to look like machine guns. Just as we don't ban powerful Porsches (which actually can go very fast), we don't ban less-powerful vehicles that simply look like high-performance cars.

Likewise, we don't ban autos because they are underpowered, or because they're made with low-quality metal. If you want a Yugo, you can buy one. So the state-level bans on inexpensive guns (a.k.a. "junk guns" or "Saturday night specials") will have to go, along with the federal rules against the import of cheap guns.

Also slated for elimination under the treat-cars-like-guns rule are thousands of laws regulating the purchase of firearms and their possession on private property. The simple purchase of an automobile is subject to essentially no restrictions. When you show up at the dealer's showroom, he will not conduct a background check to find out if you have a conviction for vehicular homicide, or if you've been arrested for drunk driving, or even if you have a driver's license. All you need is money.

The only "waiting period" to buy a car runs from the time you pay for it (with cash, a certified check, or a loan document) to the time the salesman hands you the keys. This waiting period tends to run from 30 seconds to five minutes. In contrast, firearms are the only product in this country for which FBI permission (via the national background check) is required for every single retail purchase.

If you keep your automobile on private property, there are virtually no restrictions. Even though your driver's license was revoked last week, you can drive your Jeep on your ranch as much as you want. Indeed, you can drink a case of beer before you go driving around your ranch, and enjoy the ride knowing that you are not violating a single law. (Of course, if any form of negligent or reckless conduct with your auto on your own property results in injury to an innocent person or to someone else's property, you will be financially responsible, and you may be prosecuted for violating laws against reckless endangerment.)

Thus, we can get rid of all the laws concerning gun storage in the home, together with the laws that ban possession of guns by various persons on private property. Current federal law outlaws gun possession, on private as well as public property, by anyone who has ever been convicted of a felony (even a nonviolent one), anyone with a misdemeanor involving domestic violence (such as two brothers who had a fistfight on their front lawn 30 years ago), anyone who has been dishonorably discharged from the military, any alcoholic, any illegal drug user (defined by regulation as anyone who has used drugs in the last year), any illegal alien, and various other "prohibited persons." Some states, such as Massachusetts, go even further, making all gun possession presumptively illegal, except for persons with special licenses. Once we really treat guns like cars, all of these laws will be swept away.

The guns-like-cars licensing system touted by Gore is already in effect in 30 states, where adults with a clean record can obtain a permit to carry a concealed handgun for lawful protection. (Vermont requires no permit.)

Most cities do prohibit property owners from storing their cars in an unsightly manner (say, on cinder blocks in the front yard), or from parking too many cars on the public street in front of their homes.

Fair enough. Gun owners will have to accept laws against leaving nonfunctional guns strewn about their front yard, and they will not be allowed to leave excessive numbers of guns on the street. (Anti-gun groups frequently complain that there are "too many guns on the street.")

If you have a car on your own property, you can hitch it to a trailer, have it pulled to someone else's property, and drive the car on his property (assuming you have his permission). As long as your car is just being towed, you don't need a driver's license or plates. Thus, gun owners should be allowed to transport their unloaded guns to private property (a shooting gallery, for example) for use on that property. Jurisdictions such as New York City would no longer have the power to require a separate "target permit" just to take a gun to the local pistol range.

Car Talk: Last May, when Steve Abrams deliberately drove his car onto a day care center's playground in Costa Mesa, California, and killed two children, politicians did not call for restrictions on law-abiding drivers.

But now suppose that you want to use your car on public property, such as a street or an old logging trail in a national forest. Then a licensing system does come into play—but only because the car will be used in public. For a license that allows you to drive a car anywhere in public, most states require that you 1) be at least 15 or 16 years old; 2) take a written safety test that requires an IQ of no more than 75 to pass; and 3) show an examiner that you know how to operate a car and how to obey basic safety rules and traffic signs.

Your license may be revoked or suspended if, while driving in public, you violate certain safety rules or cause an accident. Except in egregious cases (such as killing someone while driving with extreme recklessness), first or second offenses do not usually result in license revocations. Once the driver's license is issued, it is good in every state of the union.

These driver's license requirements seem to be what Gore has in mind for handguns, although he fails to recognize that the requirements apply only to cars used in public, not cars possessed in private. The vice president's mistake is understandable, given his lack of driving experience in the years since the taxpayers have been paying for his full-time chauffeur. (In July, Gore warned that the 2000 election is "no time to take a far-right U-turn." He apparently did not realize that on American roads, it is impossible to make a U-turn to the right.)

The guns-like-cars licensing system touted by Gore is already in effect in 30 states, where adults with a clean record can obtain a permit to carry a concealed handgun for lawful protection. (Vermont requires no permit.) Making the concealed handgun licensing system exactly like the driver licensing system would involve a few tweaks, namely: 1) reducing the minimum age for a license (21 or 25 in most states); 2) reducing the fees (which can run over $100 in many states); 3) mandating a written exam in the minority of states that do not currently have one; 4) adding a practical demonstration test, which no state currently has; and 5) making the licenses valid everywhere, instead of just in the issuing state. And of course, the 19 states that currently don't give handgun carry permits to every person with a clean record would have to change their laws.

A few states already require licensees to register one or two specific guns that will be carried. Under the treat-guns-like-cars rule, every gun carried in public would have to be registered, and the owner would have to pay an annual or semiannual registration tax. The registration would also apply to hunting or target shooting guns used on public lands.

Once you get a driver's license, you can drive your car anywhere that is open to the public. Thus, we will have to repeal all the laws against carrying guns within 1,000 feet of a school, or in bars, or on government property.

Although legislative bodies regulate gun design (through laws banning machine guns, "assault weapons," and inexpensive guns), no federal agency has the authority to impose new design standards on firearms. In contrast, federal regulators do impose a wide variety of safety rules on automobiles. Some of these rules, such as mandatory passenger-side air bags, end up killing people.

So the one major way in which treating guns like cars would lead to more-restrictive gun laws would be to allow federal regulators to impose design mandates on firearms. Some of these regulations will, like automobile safety rules, cause the deaths of innocent people. Certain kinds of trigger locks, for example, can cause a loaded gun to fire when it is dropped, and a "magazine disconnect" can prevent a gun owner from firing his weapon when he is attacked. But if we accept death from regulation for cars, then perhaps we will have to accept it for guns as well.

Faced with the prospect of really treating guns like cars, gun prohibitionists tend to change their minds. They begin arguing that there are important differences in dangerousness between guns and cars. This is true. Cars are much more dangerous.

The Independence Institute's Robert Racansky points out that in 1994 (the last year for which data are available), there were 32 auto deaths for every 100,000 autos in the United States. The same year,

AP/ WIDE WORLD PHOTO

there were 16 firearm deaths for every 100,000 firearms in the United States. Put another way, in any given year, the average car is twice as likely as the average gun to cause a death.

And more than 95 percent of gun deaths are intentional (suicide or homicide), while most auto deaths are accidents. This shows how dangerous cars really are: They are twice as likely to kill as guns are, even though the killer behind the wheel does not intend to take a life. Plus, most people who die from guns are suicides who choose to die, but almost none of the people who die in car crashes choose to die.

Another argument against treating guns like cars, of course, is that gun ownership is explicitly protected by the U.S. Constitution and by 44 state constitutions, while car ownership has no such special status. On the other hand, if the groups that call for treating guns like cars followed their own advice, they would immediately disband. There are no major Washington lobby groups arguing that people should be able to buy a car only if the government decides they need one, or that people should use only public transportation, instead of private vehicles, during life-threatening emergencies.

Yet Handgun Control Inc.'s Sarah Brady favors "needs-based licensing" for firearms. "To me," she told the *Tampa Tribune*, "the only reason for guns in civilian hands is for sporting purposes." In response to the question of whether there are legitimate reasons for owning a handgun, Brady's husband and fellow anti-gun activist, Jim Brady, told *Parade* magazine: "For target shooting, that's OK. Get a license and go to the range. For defense of the home, that's why we have police departments."

Even if the anti-gun groups did not disband, they would have to change their style dramatically. People who own cars, and who belong to pro-car lobbying groups (such as the American Automobile Association), are treated respectfully by those who disagree with them. They are not routinely denounced when a criminal with a car kills someone.

A few days after the Columbine High School murders last April, Steve Abrams deliberately drove his Cadillac onto a playground in Costa Mesa, California, killing a 3-year-old and a 4-year-old. No one showed up on television to claim that General Motors, car owners in general, or anyone other than Steve Abrams was responsible for this crime. Politicians did not try to use Abrams' murderous act to create a campaign issue or stir up support for restrictions on law-abiding car owners. If gun owners were treated like car owners, they would not be vilified by smug moral imperialists with the energetic assistance of the president and most of the national news media. Sad to say, that would be progress.

David B. Kopel (davekopel@hotmail.com), research director at the Independence Institute in Golden, Colorado, (i2i.org) is the editor of Guns: Who Should Have Them? *(Prometheus).*

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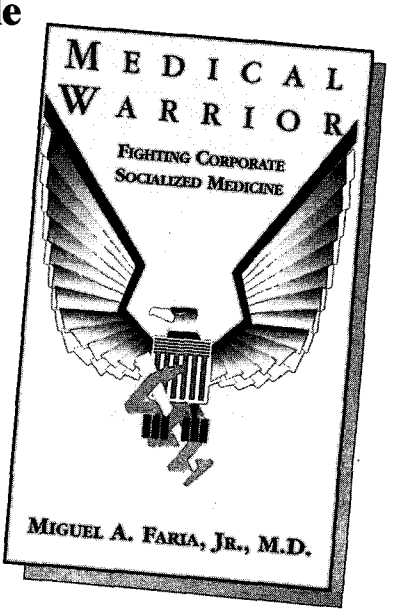

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Binge and Purge

Scolding students won't make them safer.

By Matthew J. Herper

Late on the night of October 31, 1997, MIT lost its third undergraduate in little more than a month. By then I was getting used to writing obituaries. It was my junior year, and I had started an alternative newspaper, hoping to write about the scientific breakthroughs flowering all over campus. Then students started dying, and I found myself covering a different beat.

This time, I was almost frightened at how the article came so automatically, in an easy stream of typing and phone calls. Two cars had hit and killed Michelle Micheletti as she crossed Memorial Drive, a dangerously busy street that separates MIT from the Charles River and Boston. My dormitory was on Memorial Drive, as are most of the others on campus. From the curbside, the speeding cars seemed eager to tear off pedestrians' limbs. There were neither traffic lights nor walkways. Even before the accident, some MIT students had been campaigning for a safer way to get across the street. Even after the accident, nothing was done to make the street safer, aside from repainting the crosswalks.

I posted my story on the paper's Web page. Finishing it left me drained, so I drifted around my dorm for a while, feeling numb. Seeing an old friend in an elevator, I sighed and muttered that we had "lost another one." She asked who it was, I told her the name, and she collapsed into my chest. "I knew her, I knew her," she sobbed. The elevator doors opened and she ran back to her room, wiping her eyes.

Her reaction left me in cold shock. At the end of September, two freshmen had died within a week of one another, but neither had been on campus long enough to be close to more than a small group of friends. I hadn't known Michelle, but it seemed as though every third person I talked to had. She had been active in student government, a sorority member, an excellent student. Everyone who talked to me about her mentioned her constant smile. This loss stung, striking not only at our fear of mortality but at the connections within our community.

But Michelle Micheletti's death had little impact outside of MIT: just a few articles in *The Boston Globe*. The first student to die—Umaer Basha, who had drowned in the shower—seemed to get no press coverage at all. But the second death had captured the nation's attention, seizing space on CNN, in newsmagazines, and on front pages.

Scott Krueger had passed out drunk during an initiation celebration at his fraternity. He choked on his vomit, fell into a coma, and, three days later, died. By then he was already national news. His death had become a flash point in a national debate about drinking on campuses, and the handsome face and dimpled smile of his high school yearbook photo had become a symbol of the dangers alcohol poses to youthful innocents just sent off to college. And once he was turned into a symbol, the details of his tragedy were glossed over, forgotten. The realities of student life were lost in a swarm of flashing cameras, screaming headlines, and political grandstanding.

Scott Krueger had passed out drunk during an initiation celebration at his fraternity. He choked on his vomit, fell into a coma, and, three days later, died. By then he was already national news.

Life at MIT became surreal. As some students tried to mourn at a candlelight memorial service, others lined up for the television cameras. All sense of context was lost, and with it went any chance of really learning from Krueger's death.

College is a nuclear reactor. Students bounce around wildly, colliding and combining and falling apart in the chaos between early adolescence and adulthood. Universities try to contain this energy, to direct it toward learning and growth. But there is inevitable tension: The hyperactive stupor of a wild party is at least as much a part of student life as the controlled intellectual exercise of the classroom. Sometimes the controls on student behavior snap, and something explodes.

Scott Krueger's death was an explosion, as violent an accident as the crash that killed Michelle Micheletti. And just as Micheletti might have been saved by a traffic light or an overpass walkway, Krueger might have lived if some aspects of college culture, particularly fraternity culture, had been different. But the conditions that killed Krueger were shaped by the complicated reactions of a campus' social life, something far more complex than a busy street. Automobiles have drivers. Fraternities don't.

Yet the perception that college drinking was out of control—and the fact that Krueger was so young—led many people to insist that *someone* must be responsible for his death. The police launched a homicide investigation. As a grand jury was convened, there was speculation that indictments might finger not only Krueger's fraternity brothers but MIT itself. The legal process dragged on for the better part of a year, while Scott's parents gave interviews to *Newsweek* and *20/20* attacking MIT for allowing their son to live in a fraternity that had encouraged his drinking and his death.

Those charges had merit. Indeed, there were times when I was ready to point a finger at the university myself. Krueger had died at a reckless, dangerous event that had

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occurred while MIT wasn't watching but should have been.

Krueger had passed out while drinking at an initiation party at the Phi Gamma Delta fraternity, or Fiji, where he lived. Allegedly, the frat had challenged Krueger and his pledge class to finish the alcohol left in a room with them while they watched the movie *Animal House.* According to court papers, Krueger was then taken to his basement room and placed on his stomach with a trash pail near his head. There was a delay before anyone called for help. Krueger's fraternity brothers called MIT's campus police. When an ambulance arrived, he had already turned purple.

Fired Up: In May 1998, students at Michigan State protested the ban of alcohol on campus.

Animal House Night was a Fiji tradition. A student who had pledged the fraternity the year before but left, Pedro Fuentes, remembered attending a similar event. "It was Animal House Night, I think," he told *The Harvard Crimson.* "They gave us 90 beers...and told us to finish it before the end of the movie." When I phoned him, Fuentes declined to elaborate further: He didn't want "to get the guys in Fiji in trouble." He insisted that all pledge activities were voluntary.

Such dangerous initiation rites were not limited to Fiji. A former member of Sigma Phi Epsilon, Ryan Maupin, told me that "Sig Ep" used drinking rituals to welcome new pledges. But "after Krueger it had to stop—it was too risky."

The university should have been more aware of what was going on. As Rosalind Williams, MIT's highest-ranking dean, admitted to me, "We just were not sufficiently aware of what was happening in fraternity houses." But it isn't fair to blame Krueger's death on MIT.

Scott Krueger did not die because someone had a responsibility to watch him and failed. He fell through the gaps between other people's responsibilities. The university administration, his fraternity brothers, perhaps his friends and family, certainly the MIT community into which he had moved, all failed him. Scott Krueger was not murdered. He was ignored to death.

At MIT as anywhere else, students join fraternities looking for a place to belong. College is a bridge between the cozy, often claustrophobic world of high school and the looming openness of the rest of life. Fraternities provide one more place of shelter. They can be good or bad for the people who live in them, but they always provide a barrier against isolation.

Yet the problem with the fraternity where Krueger died may have been its own isolation from the rest of campus. The most dangerous thing about the party Scott Krueger was attending was not that he was drinking too much, nor even that he may have been pressured to drink. It was the celebration's small size.

Alcohol is most dangerous at small events like the one Krueger attended. I've rarely seen people horribly drunk at large parties—tipsy or goofy, sure, but not passed out, cod-fleshed and clammy. And when someone does drink too much while surrounded by a hundred other students, it is much more likely that someone will be there to get him through the night.

It's the times when five of us sat down over a bottle of tequila that I saw friends get so drunk they couldn't stand or speak coherently. And when all five drinkers are already tired and emotional, chances diminish that someone will be around to help.

Once, after drinking for hours in a small group, a close friend of mine decided it would be fun to drink a glass of straight vodka and pass out. Fortunately, he decided to do this at a rather large party instead of in the small group he had been with. Several of us found him, contacted MIT's medical center, and kept a bedside vigil. Other students who had seen him were checking up on him all night. (Incidentally, the medical department told us to do exactly what Krueger's fraternity brothers did for him: to lay him on his side or stomach and check on him every five or 10 minutes.)

"Dangerous drinking should not be associated with larger parties," concedes MIT's Dean Williams. "Student deaths, or near-deaths, are associated with celebrating something [in smaller groups], whether it's a birthday or a football game victory." But it was larger parties—the kind university administrators can track and control—that public opinion and city officials forced MIT to curtail in the wake of Krueger's death. As Williams worriedly acknowledges, students were left to drink in their rooms.

The MIT I entered in 1995 constantly erupted with packed parties. These served as a release, as places where the pressures of a heavy workload could give way to something immediate, thrilling, joyous. In dormitory basements and frat house living rooms, those parties were a steam

AP / WIDE WORLD PHOTO

valve, a symbol of the strong communities that students relied on for emotional support.

When these parties suddenly vanished in the days following Krueger's death, MIT became far less bearable. Gray, technical, and cold, it became a place of nerve endings deadened by grief. The world seemed hopelessly bleak, and there was nothing to do but sit in our dorm rooms, work, and think.

In March, there was a fourth death: Philip Gale, a sophomore who jumped from the 15th floor of MIT's tallest building. Gale had helped build Earthlink, a budding Internet company, and was a brilliant musician. When *The Boston Globe* finally published something about him a week after his death, it wrote mostly about his links to Scientology. It also got his hair color wrong. The chants against "college binge drinking" started to sound hollow: It became increasingly hard to believe that any of the scolds actually cared about the students they were "protecting."

But they persisted. In October 1998, Congress passed a law allowing colleges to notify parents of drinking violations even when they pose no threat to a student's welfare. Previously, the 1974 Buckley amendment forbade the release of such student records. (Across the country, alcohol poisoning kills some 50 students each year. One wonders why this body count is enough to prompt a new national law, while Memorial Drive remains as deadly as ever.)

MIT appointed a Working Group on Dangerous Drinking, headed by Nobel laureate Phillip Sharp; among other things, it recommended that alcohol-poisoned students be protected from legal penalty when they are given medical help. This would make students more likely to call for help, the working group argued, making death or injury less likely. The proposal went nowhere, partly because of administrative problems, but also, perhaps, because some of the authorities were less interested in protecting people than in scolding them.

The fraternities fell under increased scrutiny. In late August, almost a year after Krueger's death, partygoers on the roof deck of Beta Theta Pi, an MIT fraternity on the Boston University campus, threw beer bottles at BU police officers. One student, James Williams, was charged following the incident; allegedly, he had bought the alcohol.

The charges against Williams were weak and eventually fizzled, but when the city threatened to revoke the fraternity's license to house students he was under intense legal pressure and would not speak to reporters. Sitting near him at the licensing board meeting, I heard him mutter that no one there cared about the truth.

That was what it felt like to be an MIT student that year, listening to lectures on the dangers of drinking from people who didn't have a clue what the dangers we faced actually were.

Matthew J. Herper (mjherper@alum.mit.edu) is an MIT graduate now attending the Columbia School of Journalism.

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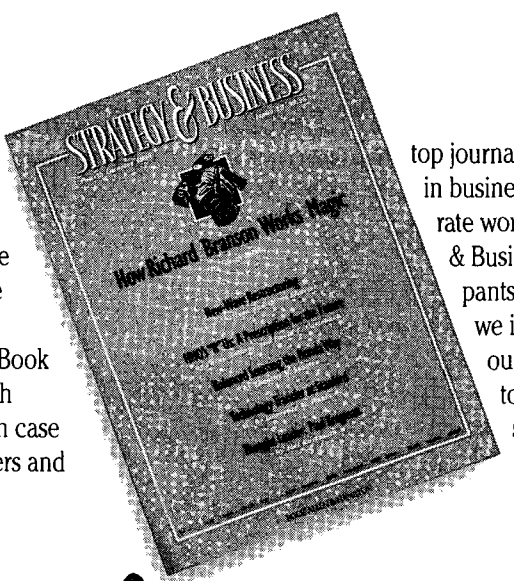

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Fee Fighters

Should students be forced to subsidize campus activism?

By RiShawn Biddle

As a law student at the University of Wisconsin, Scott Southworth had to pay $165.75 per semester to support campus groups selected by the student government. Among the beneficiaries were several political groups, including the Green Party and WISPIRG, the local arm of Ralph Nader's national network of "public interest research groups" (PIRGs). Southworth, a former chairman of the College Republicans and member of the Christian Legal Society, was not pleased.

He was even less pleased when he learned he had no right to choose which groups would receive his contribution. So when the university refused to refund his money, Southworth and two classmates took the school and 18 campus groups to court. "I didn't think it was right that the university forced us to pay for student activities with which we disagreed," recalls Southworth, now a researcher for the Wisconsin state legislature. "It wouldn't matter if it was 5 or 10 cents. It's the principle."

The suit, *Southworth v. Grebe*, was filed in April 1996 by an affiliate of the Alliance Defense Fund, a Christian legal group. In August 1997, U.S. District Court Judge John Shabaz found in Southworth's favor, and the Court of Appeals for the 7th Circuit upheld the decision in August 1998. The judges not only supported Southworth's contention that the fees violated his First Amendment rights but struck down the university's argument that subsidizing political activities was "germane" to its educational mission.

The next stop is the U.S. Supreme Court, which will consider Southworth's case before the end of next year. If the Supremes side with him, scores of public universities will be forced either to stop such subsidies or to create check-off systems that allow students to direct where their fees will go.

The Wisconsin case is only one skirmish in a long feud over the constitutionality of using public universities' student activity fees to fund political groups.

In the late '70s, for instance, a group of students at the University of California at Berkeley challenged the use of student fees; their case, *Smith v. California*, resulted in a 1993 ruling by the California Supreme Court that the state university system could not fund political groups. A year after Southworth filed his suit, four students at the University of Minnesota sued to kill all funding for political groups, except a voluntary fee for that state's PIRG.

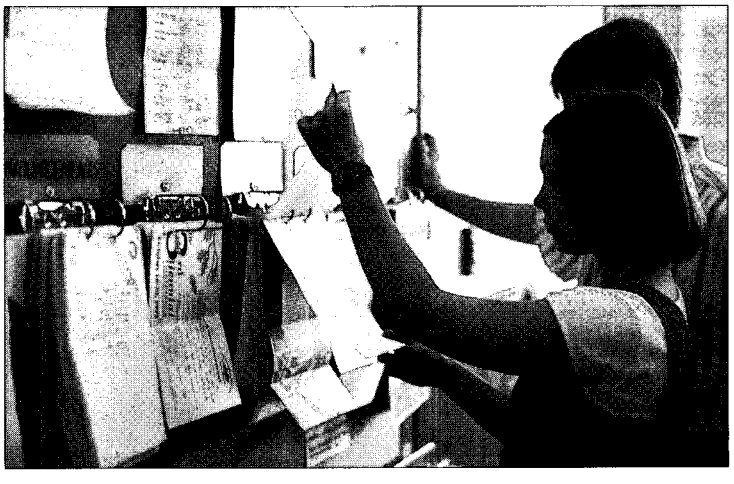
In 1998, a group of students sued Miami University of Ohio for the right to opt out of their fee system, which they say violates the equal access guidelines set by *Rosenberger v. University of Virginia*, the case that allowed religious groups to receive activity fees. And at the University of Oregon, Fritz Von Carp and 11 other former students have waged a four-year court battle to stop the flow of funds to OSPIRG, their local chapter of PIRG.

The Oregon case awaits the outcome of *Southworth*, the first such challenge to reach the Supreme Court. While most lower courts have ruled in the universities' favor, the anti-fee forces have enjoyed some victories, especially regarding PIRGs. (Many colleges have established special subsidies just for PIRGs, and these have been a popular target.)

Indeed, there's every reason to believe Southworth will win his case. Traditionally, the Supreme Court has taken a dim view of arrangements similar to student activity fees. For instance, in *Abood v. Detroit Board of Education* (1977), the Court told the Detroit teachers union it couldn't divert dues paid by nonunion employees to political activities unrelated to collective bargaining. "The fact that the appellants are compelled to make, rather than prohibited from making, contributions for political purposes works no less an infringement of their constitutional rights," the Court declared. "For at the heart of the First Amendment is the notion that an individual should be free to believe as he will...be shaped by his mind and his conscience rather than coerced by the State." Thirteen years later, in *Keller v. State Bar of California*, the Court made a similar ruling regarding bar association dues.

Anthony Caso, general counsel for the Pacific Legal Foundation, the public interest law firm that handled *Smith*, believes *Keller* is a very strong precedent. All that's different, he says, "is that it's happening on college campuses. Technically, it should not be."

Administrators and sub-



Dues Blues: Fee supporters claim funding political groups with student fees is a necessary part of college life.

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sidized activists beg to differ. They claim mandatory fees help foster the free exchange of ideas. Giving them money, they say, is no different from letting political clubs meet in classrooms or rally on campus greens. Indeed, for Ivan Frishberg, spokesman for the PIRG-allied Center for Campus Free Speech, the fees are an "essential" element of the "marketplace of ideas on campus." Eric Krauss of Associated Students, the student government for Wisconsin's Madison campus, pushes the position even further. "You can't choose to opt out," he declares, striking a communitarian note. "You come here, you accept the responsibility to be a citizen." Because "such a wide variety of ideas are subsidized by fees," he adds, Southworth's suit "really threatens the vibrancy of our student life here."

While no doubt heartfelt, such a claim is a wild exaggeration. Students have engaged in all sorts of political activity since the dawn of the republic, their efforts surviving mostly on their wits and ingenuity. They have gotten by without compulsory support before, and they can get by without it now.

But if student life will remain "vibrant" regardless of whether fees are yanked from political groups, the fears of the pro-fee forces are well-grounded on another level. While *Southworth* might not threaten the breadth and depth of campus speech, it could hit some specific campus groups in the pocketbook. In 1996, the University of Wisconsin gave more than $109,000 to groups at its Madison campus, including $49,500 for WISPIRG. At the University of Oregon, OSPIRG received nearly $400,000 in a three-year period. It seems highly unlikely that those groups will be able to convince students to pony up that much voluntarily.

The Oregon case, incidentally, doesn't turn on ideology, and it undercuts activists' claims that the anti-fee movement is a right-wing plot to defund the campus left. The mover behind the case, student Fritz Von Carp, is no conservative. Indeed, he defines himself as a "moderate" and is a former editor of OSPIRG's newsletter. Von Carp resigned after he decided the organization was dedicating too much student money to off-campus activities, such as its annual report on toy safety. In another campus newspaper, Von Carp and fellow student Owen Rounds wrote a series of exposés detailing irregularities in OSPIRG's financial reports, complaining that the group rarely spent money on campus issues, and alleging that it and another PIRG had formed a virtual slush fund.

When they couldn't convince the University of Oregon's administration and student government to end OSPIRG's subsidies, Von Carp, Rounds, and 10 other students sued the university and the two PIRGs. The case, filed in 1995, now lingers in the 9th Circuit, awaiting the Supreme Court's *Southworth* decision. Von Carp says he's not as interested in eliminating the fees as he is in letting students make donations based on their own interests.

Students engaged in political activity have gotten by without compulsory support before, and they can get by without it now.

"I'm offended," he explains, "by the fact that I don't get to choose."

But supporters of activity fees insist that choice should not be an issue. After all, they argue, every activity—from the campus women's rights center to the chess club—might entail an ideology to which one may raise objections. Says Krauss, the student government member at the University of Wisconsin, "People can be opposed to the chess club because it advocates a strategy of war."

Things have reached a strange impasse indeed when a chess game is compared to lobbying for specific legislation such as a clean water bill. Until the Supreme Court makes its ruling, all the various participants in this debate can do is wait. For his part, Scott Southworth maintains that there's nothing wrong with supporting political groups. But which groups will receive an individual's money, he adds, should be "something that each student decides for him or herself." ◆

RiShawn Biddle (rishawn@exofuse.com) was REASON*'s 1999 Burton C. Gray Memorial Intern.*

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SDS activist Jim Shock in the 1960s

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Dial 'O' for Outrage: The Sequel

Tales from an overlawyered America

By Walter Olson

When the news came this spring that famed non-murderer O.J. Simpson had struck a deal to cut broadcast ads for a lawyers' referral service, I figured that there went my last chance to make a living as a professional satirist of our legal system. Simpson as a 1-800-number TV pitchman was a better rebuke to the state of American law than any farce or skit I could have dreamed up, and it had the extra edge of being true.

That development reinforced my resolve to stick in the future to simple chronicle. Satire, after all, achieves its ludicrous effects by way of exaggeration, and I'm not sure how one would go about exaggerating the activities of a group such as the American Bar Association, whose annual convention this summer invited Simpson defense lawyer Johnnie Cochran to speak on the subject of truth in the legal profession, presumably on the same logic by which you might ask the local Terminix man to come talk about bugs.

All summer long I assembled news clips of this sort as fodder for my new Web site Overlawyered.com, and now that I'm officially giving up on satire I think there's room for the occasional column in this space just cataloging the harvest of clips in a straightforward manner. I see no reason, for example, to add any overlay of commentary to the story that came out of Lancaster County, Nebraska, in late August, reporting that a judge had declined to order the Taco Bell restaurant chain to pay for trips to India for Siva Rama Krishna Valluru and his wife, Sailaja. The couple had been eating a rice side dish which they were assured was vegetarian and were aghast to discover partway through that it contained meat. They argued that their devout Hinduism required as expiation for this swallowing of flesh a purification ritual that involved their bathing in the Ganges River, but Judge Jean Lovell said the expenses of such a trip did not count as reasonably foreseeable to the fast-food chain.

Nor will I ask anyone to crack a smile at the interesting hypocrisies that came to light last winter when Boston's top federal law enforcement official launched a splashily publicized crackdown on the shopkeepers and bed-and-breakfast proprietors of quaint Nantucket Island, many of whom, given the high cost of local renovations and a native reluctance to tamper with historic structures, have lagged behind in constructing the ramps and wider corridors required by the Americans with Disabilities Act (ADA). Ironically, as *The Boston Globe* reported, if the ADA enforcement actions go to trial it will be in a newly built federal courthouse that itself has been accused of massively violating standards for handicapped accessibility.

The jury boxes and witness stands in the building's 27 courtrooms, for example, can be reached only by way of steps. "We looked at the possibility of building in permanent ramps that were retractable, but it was such a burden on the budget we just couldn't do it," said General Services Administration project manager Paul Curley. The courthouse does, however, sport English oak paneling, a 45,000-square-foot glass wall overlooking the harbor, "spacious waterfront chambers for judges, and a five-story Great Hall."

MIKE LUCKOVICH
ATLANTA CONSTITUTION
THIS IS THE ROCK. A MAXIMUM SECURITY FACILITY. YOU'RE UNDER CONSTANT OBSERVATION. PREPARE FOR UNANNOUNCED WEAPONS SEARCHES.
Welcome back!
NOW WHO WANTS TO TELL US ABOUT THEIR SUMMER VACATION?...

MIKE LUCKOVICH

Likewise, I intend to keep a sober mien when telling the story of how 27-year-old Theodore Nobbe of Clearwater, Florida, recently won acquittal from felony animal abuse charges that could have landed him in prison for five years. A fellow patron at the local Bombay Bicycle Club had reported Nobbe to the cops for allegedly dunking the head of a friend's parrot in his tequila-based drink several times, to see if it would get tipsy. Nobbe denied the Polly-in-Margaritaville charges of psittacine abuse, but an officer said the creature's upper portions seemed damp when he was called to the scene, and a Humane Society employee said when the bird was brought to the shelter it ate voraciously, a pattern consistent, she averred,

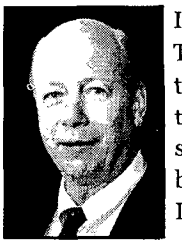
with its having the "drunken munchies."

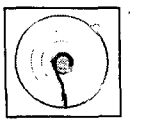
All very funny for the bird, you may think—hangover aside—but less funny for Nobbe, who'd had no previous problems with the law. Prosecutors said they had to charge him with felony as opposed to misdemeanor animal abuse because that's what the law specifies for "repeated" acts of abuse—and multiple dunkings counted as that. Animal rights advocates jammed prosecution switchboards demanding that the book be thrown at Nobbe, just as in recent years, to little organized opposition, they've successfully lobbied for increasingly stringent criminal statutes on animal abuse.

Over in Seattle, Sharon Kempler-Jones was encountering her share of animal-related legal headaches. Her troubles started one day while she was running her small consignment clothing shop, the Gypsy Trader. She noticed Chaya Amiad bringing a small, shaggy, leashed dog into the store. Taking the view that dog dander and clean clothing don't mix, she asked Amiad to leave it outside. The woman took offense and began to argue, and next thing Kempler-Jones knew she was being served with a complaint from the Seattle Office for Human Rights for disability discrimination.

Disability? Amiad wasn't deaf or blind, nor did she display any other visible handicap. But she produced a note from her psychologist declaring her to be "emotionally dependent" on the dog, which "has been privately trained to assist Ms. Amiad with cognitive disorientation and confusion" and without whose canine companionship she "would probably become housebound and highly dependent." Kempler-Jones had no way to know Amiad's psychiatric status at the time of the incident, but that didn't save her from an order to pay more than $650 and submit to sensitivity training.

In Bakersfield, California, the developer of the Fairway Oaks community has been put through the legal wringer for a different sort of insensitivity: toward lawyers. Fairway Oaks had adopted a policy of not selling new houses to attorneys because it considered them too likely to get into disputes. Attorney Timothy Liebaert was "shocked" and "very mad" to learn about this policy, and he sued them. How better





I 've made and sold over half a billion suction cups. They stick onto windows if there's nothing between them and the glass. To make better cups, I studied the nothing that should be under the flange of a suction cup. My life boiled down to making better suction cups by learning more and more about less and less. After a decade, I knew more about nothing than anyone. I found myself asking:

"Is this all that there is to my life? Nothing?"

After years of studying nothing, this six word, mind-clearing flash exploded in my mind: *God can program in three dimensions.*

He can program actual shapes, vastly smaller than the motes of dust that float within motes of dust. He did it with a Divine kind of three dimensional fractal geometry. Then, it was reasonable to assume that He and the ranks of sub-programmers (the Hierarchy of Angels) could have compiled the basic shapes into all Creation with amazing speed. He brought things into the formless void faster than a screen-saver can fill a computer screen.

Suddenly, science and faith both made sense. Science is simply the study of the Program. Theology is the study of the Programmer.

Once I understood that God can program in three dimensions, I knew that those who take the Bible literally have rational reasons for their faith. If God can program in three dimensions, the seams of coal, pools of oil, and even the DNA locked into fossils could have been easily programmed in place with a divine kind of replicating fractal geometry.

He went to all that trouble to give us free will. Each of us can freely choose to believe that God is smart enough to make the world in a week. Or, we can choose not to. He has left us intellectually free to decide. Aquinas was right. We can make the right choice through reason.

It's easier when we realize that God can program in three dimensions. After years of studying nothing, everything made perfect, simple sense.

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to disprove the stereotype that lawyers are overly litigious? Liebaert lost his original claim after a judge ruled that California discrimination law does not protect occupational status, but he has filed an appeal and vows to keep the case going on new theories, such as a claim that a developer is obliged to announce a no-lawyer policy in its ads. By the time this is all over, even if Fairway Oaks is completely vindicated, it will have reason to be really, really sorry it ever acted disrespectfully toward attorneys.

Between banning trench coats and other "oversized garments," installing metal detectors, and ripping out lockers and other objects that symbolize the now obsolete concept once known as "privacy," high schools provided another steady source of material for a survey of legalistic excess. "We're not trying to take away anyone's personal freedom," declared Assistant Principal Ken Spurlock of Boone County (Kentucky) High School in suburban Cincinnati. When you see a quote like that in a news story you know at once that, yes, personal freedom has taken another hit. In Boone County's case, the school had extended its dress code to prohibit students from wearing clothing that it deems unsafe, such as overlong jeans they might trip over or sandals without back straps that might make them slip on a staircase. Naturally it's for their own good—what isn't, these days? Seventeen-year-old Malia Novak said she was willing to live with the new rules, though they'd mean dropping many favorite pairs of shoes from her schoolday wardrobe, but added, "I think people probably trip because they're clumsy, not because of their shoes."

Boone also bans the carrying of book bags and backpacks unless they're made of mesh or a transparent material, thus following the example of many other schools that view their students as potential Dylan-Klebolds-in-training unless proven otherwise. Increasingly, writes *Chicago Tribune* columnist Steve Chapman, schools treat the students involuntarily committed to their charge as "dangerous, incorrigible, undeserving of respect" or privacy. "What's the difference between school and prison?" Chapman asks. "At school, you don't get cable TV."

In early September, officials at Winneconne High School in Wisconsin made news by banning T-shirts and other clothing with the "Billabong" brand name, which they said was too suggestive of *bong*, the term for a marijuana water pipe. An Australian aborigine word meaning lagoon, *Billabong* is the name of a company that originally made surfboards and later branched into surf clothing. "I realize Billabong is a surfing company," said Principal Ed Dombrowski. "If we were in California or Florida where they do a lot of surfing, I would understand. But we don't surf here, so where do we draw the line?" Where, indeed? Adam Szadkowski, who was ordered to go to the restroom and turn his shirt inside out to conceal the offending word, found the rule "ridiculous": "Are they going to ban us from wearing a shirt that says *potato* just because it has the word *pot* in it?" After the story began drawing press interest, school officials changed their minds and decided to lift the ban.

"We're not trying to take away anyone's personal freedom," declared Assistant Principal Ken Spurlock. When you see a quote like that you know at once that personal freedom has taken another hit.

And all over the place, the Speech Police were on the march. Bloomberg LP, whose leased terminals handle an estimated 3 million pieces of e-mail on a busy day in the business world, quietly installed software that prevents users from employing words deemed profane, obscene, or racially insensitive. If you try to send a message using one of the forbidden words, a pop-up reprimand instructs you that such language is "inappropriate in the context of business correspondence." Company founder Michael Bloomberg said the new policy was adopted "for fear that offensive e-mails would lead to harassment lawsuits." Most users of Bloomberg terminal e-mail are not employees of the company itself, but harassment law has lately been expanding to expose businesses to liability for failing to curb "customer-on-customer" harassment.

For the moment, many verbal malefactors are still being let off with warnings. In Chicago, the faculty union at Daley College finally managed after two years to secure the dismissal of the charges pending against it before the city's Commission on Human Relations. Its sin? Having published in its newsletter an opinion piece critical of affirmative action. By the standards prevailing in conservative magazines the offending piece was not especially extreme in tone, but its author, Professor James Bell, was still accused of jeopardizing "the rights of students and staff at Daley to equal access" by "mak[ing] students uncomfortable in an institution where comfort is essential for learning." (The commission finally dismissed the complaint on the grounds that the college was not a "public accommodation.") And the Department of Human Rights in St. Paul, Minnesota, agreed to back off from a complaint it had filed against the city's newspaper, *The St. Paul Pioneer Press*, accusing it of racial discrimination for having run an editorial cartoon on college athletic recruitment that offended many local blacks.

Even from Canada, renowned for the grip held by political correctness on its public life, there came word that the Canadian Broadcasting Standards Council had declined to penalize Global Television for its July 1998 broadcast of a 45-year-old Bugs Bunny cartoon. A feminist complainant had hauled Global before the tribunal over an episode of *The Bugs Bunny and Tweety Show*, alleging that Bugs had uttered sarcastic remarks demeaning to women. The commission decided that the wascally wabbit, however backward his attitudes, was merely behaving as a creature of his time.

I'd like to say 'That's all, folks," but I'm sure it won't be.

Contributing Editor Walter Olson (wo@walterolson.com) is a senior fellow at the Manhattan Institute and the editor of Overlawyered.com.

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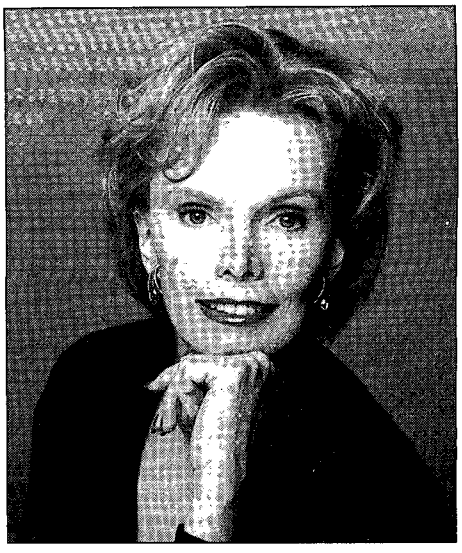

by Leil Lowndes

The King of Conversation raves about Leil Lowndes!
"You'll not only break the ice, you'll melt it away with your new conversation skills."—***Larry King***

Don't you hate it?

The prospect of walking into a room that's packed with strangers, approaching someone you've never met and striking up a conversation.

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When I teach people these abilities, they experience dramatic, positive changes in their lives and careers. Now I've put all of my techniques into an exciting new audio-cassette program, *Conversation Confidence*™.

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Have you ever said to yourself, "I wish I had spoken up"? Or, "If only I had introduced myself"? Or, "Did I say the wrong thing"?

Conversation Confidence is the answer. *Just by listening,* you'll master the proven interpersonal skills you need to deal with *every* individual, *every* group, *every* occasion.

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Internationally acclaimed communications expert ***Leil Lowndes*** *is a best-selling author and speaker who also coaches private clients, including top Fortune 500 executives.*

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- ✓**The four rules of effective "small talk"—and the one huge *error* many people commit.**
- ✓How to converse intelligently on *any* subject—even if you know little or nothing about it!
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- ✓How to handle difficult people. Ingenious ways to turn even the fiercest tigers into pussycats.
- ✓**Is she (or he) romantically attracted to you? How to know for sure.**
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- ✓**Ten often-heard expressions—that *you* should *never say.***
- ✓Get what you want! Shrewd tactics to negotiate, persuade, sell. A powerful six-step formula to win others over.
- ✓**And much more!**

NO-RISK trial offer, plus a great FREE BONUS.

Test this terrific program for only $29.95. Put it to work—and watch what happens. I *guarantee* that with *Conversation Confidence,* you'll be a winner on every occasion, *or it costs you nothing!*

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Orders of the Day

By Douglass C. North

The Great Disruption: Human Nature and the Reconstitution of Social Order, by Francis Fukuyama, New York: The Free Press, 336 pages, $26.00

The shift from an industrial to an information era weakened the social bonds and common values holding people together in Western societies, argues Francis Fukuyama, producing what he calls the "Great Disruption." But he adds that "social order, once disrupted, tends to get remade again, and there are many indications that this is happening today."

This book is an extension of *The End of History and the Last Man* (1992), in which Fukuyama asserted the triumph of political democracy and market economies. Now he cautions that this triumph is not necessarily accompanied by corresponding moral and social development, and that there is a tendency for liberal democracies "to fall prey to excessive individualism." He documents a moral decay with statistics on rising levels of crime, declining fertility, increasing births out of wedlock, decreasing levels of trust, and the breakdown of the family. But he also notes that these trends have been reversed in recent years. The Great Disruption is just that: a temporary interruption on the way to an ever better future. As Fukuyama puts it, "We human beings are by nature designed to create moral rules and social order for ourselves."

Fukuyama's argument is buttressed by extensive data indicating recent reversals in the social indicators of moral decay and by an extensive reading of recent literature in sociology, political science, and economics on the formation of social norms. He also uses the hot new literature of evolutionary psychology to explore the genetic origins of these norms, though he is careful to argue that the particular forms these biological tendencies take is the province of culture rather than nature.

Here and there, Fukuyama is guilty of a lapse in understanding, as in his dismissal of "path dependence" as a "currently fashionable bit of jargon." But path dependence is an obvious fact of history, a consequence of the continuing impact of our cultural heritage. Indeed, anyone who has attempted to improve the performance of Third World countries becomes aware of the powerful influence of path dependence in constraining the choices available for reform. But overall, Fukuyama's argument is worthy of serious attention. I will concentrate on three essential elements of Fukuyama's argument: the source of social order; his appeal to the past to show that we have recovered from serious difficulties before; and the fundamental dilemmas of forecasting the future.

Contrary to Fukuyama's optimism that "the great disruption" is over, disorder remains endemic in substantial parts of the world. In fact, disorder, stagnation, and the failure to develop have been more common than the reverse.

Regarding social order, Fukuyama writes, "The systematic study of how order, and thus social capital, can emerge in spontaneous and decentralized fashion is one of the most important intellectual developments of the late twentieth century." He correctly attributes the modern origins of this argument to F.A. Hayek, whose pioneering contributions to cognitive science, the study of cultural evolution, and the dynamics of social change put him in the forefront of the most creative scholars of the 20th century. But Hayek's views about the "spontaneity" of social order remain controversial. In their extreme form, they imply that all deliberate efforts to manipulate social order —social engineering—are doomed to failure because the complex nature of our cultural heritage makes a complete understanding of the human condition impossible.

Hayek was certainly correct that we have, at best, a very imperfect understanding of the human landscape, but "spontaneous" it is not. What distinguishes human evolution from the Darwinian model is the intentionality of the players. The mechanism of variation in evolutionary theory (mutation) is not informed by beliefs about eventual consequences. In contrast, human evolution is guided by the perceptions of the players; their choices (decisions) are made in the light of the theories the actors have, which provide expectations about outcomes. Thus, when Alan Greenspan persuades the Board of Governors of the Federal Reserve to raise interest rates, that action is based on a theory of the relationship between interest rates and changes in the overall price level.

Despite Fukuyama's assertion about the importance of cultural conditions, there are no decision makers in his framework. Ultimately, for him, the guiding determinant is the predisposition of human biology to solve the problems of collective action. He does provide anecdotal evidence drawn from a number of political scientists and economists on the formation of norms in specific contexts, but nowhere does it add up to a model of the process of social change shaped by the deliberate efforts of the actors. We are left to speculate how the innate tendency for evolving co-

Markets or Mayhem?: "The study of how order...can emerge in spontaneous and decentralized fashion is one of the most important intellectual developments" of our time, writes Francis Fukuyama.

operative solutions does in fact systematically resolve ongoing breakdowns in a society.

Yet it is the deliberate—and frequently misguided—efforts of human beings that determine the human condition through time. The complex interaction between the genetic architecture and the cultural conditioning of humans remains an important frontier of research. But the findings, however important, of the evolutionary psychologists with respect to the touchstones of their own field—the innate predisposition of humans for cooperation, the universal taboo against incest, Chomskian theories of language structure—do not yet take us very far toward an understanding of the enormous differences between the past and present in various societies. For example, the predisposition of humans to engage in cooperative activity, when combined with specific historical and cultural features, sometimes produces successful economic performance. At other times, however, it gives us results such as those we have been observing in the Balkans in recent years.

In a second argument—his appeal to the past—Fukuyama is optimistic: He argues that social disorder has been much worse in earlier eras, and that we have recovered from it. That is certainly correct, as is his fundamental argument that there is an innate predisposition of humans to attempt to create social order. But an exploration of the economic history of 10 millennia of human effort reveals not only success stories but also long eras of disorder, chaos, and failed efforts at creating viable societies.

In fact, disorder, stagnation, and the failure to develop have been more common than the reverse. One has only to observe the stagnation of Greece for the several millennia that followed the golden age of Athens, or the fate of the Western world after the demise of Rome, or the history of Egypt over millennia (to pick just a few random examples) to be convinced that the predisposition for cooperative behavior alone doesn't get us very far. And even after 10,000 years of development since the first economic revolution (the development of agriculture), a large percentage of the world's population still does not share in the material well-being of the developed world. Indeed, in substantial parts of the globe, disorder remains endemic. We do get it right occasionally, but we get it wrong, too. Nor is that a purely historical phenomenon that terminated with The End of History.

That brings us to the third issue, the fundamental dilemmas of forecasting. Fukuyama argues optimistically that not only have we gotten it right in the past, we will continue to do so in the future. If this were an ergodic world—that is, one whose fundamental underlying nature was constant—then once we understood that nature and developed the proper theory, we would get it right, today and in the future. But uncertainty is our inevitable lot because the world keeps on changing in novel ways. That is due in part to natural, physical causes, but it is primarily a consequence of human beings' altering the world and creating new conditions and new problems. That has been our lot ever since we diverged from other primates; with the development of language, symbolic representation, and the other accoutrements of civilization, the process of change has been accelerating.

Indeed, one result of our success in reducing the uncertainties arising from the physical environment is that we have created a vastly more complex human environment. It not only has few parallels with the past, it provides a whole new range of uncertainties as a result of the complexities of human interaction. The pace of change today is more rapid than at any time in our history. We are confronting novel problems that bear little resemblance to those we have encountered before.

Yet the beliefs we have are the product of past experience, and can serve as a useful guide to policy when the past and future are sufficiently alike. If one makes the crucial assumptions that those beliefs are more or less correct, and are held by those in a position to alter the institutional framework, then past experience can serve as a guide for future action. But when the change is novel and far from our past experience, we are going, more often than not, to get it wrong. We have before; we will again. ◆

Douglass C. North is a professor of economics at Washington University, St. Louis. In 1993, he was awarded the Nobel Memorial Prize in Economic Science.

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Charge It!

By James B. Twitchell

Financing the American Dream: A Cultural History of Consumer Credit, by Lendol Calder, Princeton, N.J.: Princeton University Press, 374 pages, $29.95

Nothing so warms the heart of a contrarian as the self-evident falsity of a time-tested bromide. Take, for instance, "You can't judge a book by its cover." The book in hand is *Financing the American Dream: A Cultural History of Consumer Credit*, by Lendol Calder, and, although it is a revision of a doctoral dissertation, it reads like a work of seasoned scholarship. In fact, the dissertationness is a help, since it leads the common reader carefully through the modern history of consumer debt, showing how the concept of borrowing figures not just in economic theory but in popular culture.

The cover really does tell us what *Financing the American Dream* is about: the intimate and often distressing relationship between debt and dreaming, between anxiety and desire. Contrary to those who piously and ahistorically rail against consumer debt as a modern fall from grace, Calder takes a much more nuanced and interesting view, one informed by the tension between Puritan restraint on the one hand and capitalist enthusiasm on the other. Most refreshingly, Calder is able to bracket moral judgment, thereby letting his story of American dreaming unfold.

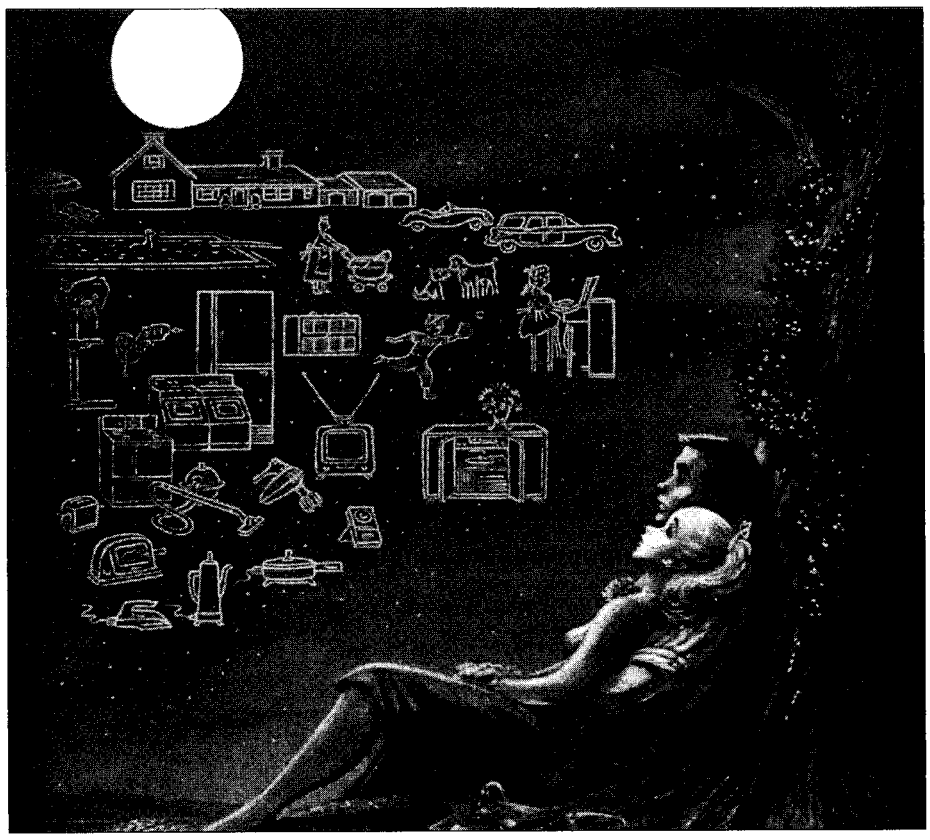
As he says early on, "In the beginning of my research, I...subscribed to the two key notions that make up the myth [of lost economic virtue]: first, that before consumer credit people rarely went into debt and always lived within their means; and second, that consumer credit destabilized traditional moral values by making it easier for people to live lives devoted to instant gratification and consumer hedonism. But the more I learned about the history of consumer credit and its effects on personal money management, the harder it became to accept the myth's central presumptions."

Here's what his book's cover—a painting that originally appeared as the August 15, 1959, cover of *The Saturday Evening Post*—looks like: In the foreground of an evening scene by a lake are two young lovers. A brilliant full moon casts an eerie shade of blue light. The youngsters are recumbent in the crook of a magical tree that has a vine of starry moss creeping up into the heavens. The lovers are looking up into those heavens.

Let's call them Missy and Buck or, if you prefer, Adam and Eve. Beside Missy on the ground are her white gloves and, interestingly, her purse. She looks rather like Debbie Reynolds of the *Tammy* movies, and her eyes are now dreamily shut in reverie. Presumably she's already seen what is between her and the moon. Next to her sits her beau, himself looking a bit like Tab Hunter. Earnest, crew-cut, paying attention, he is still focused on what is in the sky.

And well he should be. For in the night sky, drawn as if they were the outlines of constellations, are objects that we still easily recognize. In pagan times the sky might have been filled with the imaginary connect-the-star images of Leo the Lion or the Big Dipper, and in the Renaissance these heavens might have been peopled with Christian saints and divinities. But in the modern world, the heavens are composed mostly of machine-made stuff.

Let me itemize these heavenly objects, because they are still at the center of American dream life. Right under the moon is a split-level house with a two-car garage. Off to the right are two cars—one looks like a Jaguar coupe, and the other is a wood-paneled station wagon. To the left of the house is the swimming pool, complete with deck chairs, diving board, and



PRINCETON UNIVERSITY PRESS

American Dreaming: Thorstein Veblen, John Kenneth Galbraith, and contemporary scolds tell only half the story when they decry consumerism. Sometimes consumption is a path to satisfaction.

floating toys. Moving counterclockwise are Buck's future do-it-yourself tools: a drill press and a power drill. Then Missy's stuff: a side-by-side refrigerator/freezer, a washer-dryer combo, electric stove, Toastmaster toaster, Hoover portable vacuum, electric rotisserie, portable iron, electric percolator, electric frying pan, portable mixer.

And then some family stuff: window air conditioner, portable radio, television with rabbit ears, and a stereo record player in a console. In the upper right quadrant are the kids, Bucky and Missy junior, respectively doing their things. He's catching a baseball. She's playing the piano. Next to them are the two family dogs sniffing each other. Finally, there's the family maid, wearing an apron and little hat, pushing a third child in a perambulator.

Heaven on earth? Or materialistic blasphemy?

Readers of *The Saturday Evening Post* 40 years ago must have been a little concerned by this Edenic image. For at one level this is a sacrilegious vision. An unnamed editor even took time to note that this aerial view, painted by Constantin Alajalov, an emigré from Russia, had originally been planned to depict "castles in air." But the painter changed his mind, the editor explains, not out of "cynicism" but because it "takes as much magic to create a two-car domicile as it does to whip up an air castle."

All it takes to make this scene contemporary is to freshen the inventory. In the update, the split-level is now in a gated community, the cars are an SUV and a Beemer, the pool is covered and heated, the fridge a Sub Zero, the stove a Vulcan, the rotisserie a stainless-steel Weber. There's a big-screen TV and well—let's face it, you know the rest. If you don't, just realize that *The Saturday Evening Post*, that *vade mecum* of middle-class dreaming, has been replaced by *House & Garden*, *Architectural Digest*, and, heaven forbid, the *Robb Report*.

Now to really get the symmetries in place, remember that when this cover first appeared, economist John Kenneth Galbraith was raising the war cry of "overconsumption" in *The Affluent Society*. Recall that the tail fin of the 1958 Cadillac—before it became a work of art showcased at the Museum of Modern Art—was derided as an example of consumptive profligacy. In our own day, Juliet Schor alerts us to the dangerous habits of Buck and Missy in *The Overspent American: Why We Want What We Don't Need* and Robert Frank even supplies the antidote (more taxes) in *Luxury Fever: Why Money Fails to Satisfy in an Era of Excess*. (See "Purchase Disorder," June.)

This heavenly vision, this American Dream, must be restrained, say such commentators. After all, Missy and Buck can't really want—ugh!—such vulgar things. These things are not *necessities*, say the descendants of Thorstein Veblen via Galbraith; they are merely unneeded "luxuries." To such well-cosseted and well-remunerated academic critics, Missy and Buck can do very well with a rusted-out Volvo, a used Kenmore, no TV, and some sensible tie-up shoes. As important, Missy and Buck should *never* go into debt in order to get this kind of stuff.

The shame-on-you wing of academia sees consumer debt as a great snake about to poison us all. Lendol Calder felicitously calls it "disciplined hedonsim."

Indeed, puritanical economists such as Schor and Frank love to speak of the almost $2 trillion of consumer debt flowing up into the heavens (or down the drain), while neglecting to tell you that the real explosion has been precisely in the variety of things that can be bought on credit (almost everything), the new and efficient means of using credit (the card), and, especially, the vast expansion of people who are now offered credit (the young and the lower classes).

Calder focuses precisely on such developments and how they have come to shape our times. The rise of consumer credit is a fascinating story because one gets a chance to observe human desire equilibrate between difficult choices: spend/save, now/later, have/want, and especially luxury/necessity. Although from time to time people are duped into debt, more often consumer debt results from an often crafty, often intelligent, navigation between these polarities. It is, in Calder's felicitous term, "disciplined hedonism," or what used to be called "budgetism."

Of course, that's not the view from the shame-on-you wing of academia, which sees consumer debt as a great snake about to poison us all. But in point of fact, consumer debt has been with us for a long time; we just haven't seen it on monthly statements. In the early part of this century, for instance, this kind of debt was held inside families. As Calder says, America has always been awash in red ink. And, interestingly enough, well over 95 percent of consumer debt is not just repaid but *promptly* repaid. In fact, given the choice of holding corporate debt or consumer debt, you'd be much better off lending to consumers.

Our language carries our judgment and, as Calder notes, the language of consumer debt comes out of Victorian moral pieties—hence the "myth of lost economic virtue." Nowhere is this anxiety better seen than in the 1920s, as the syntax of individual debt was rejiggered in more positive terms.

A central figure in articulating the linguistic changes was the economist E.R.A. Seligman, whose groundbreaking *The Economics of Installment Selling* revolutionized how we calibrated debt in words. Seligman recast what used to be called *consumptive debtors* and *consumptive lenders* (phrases fraught with tubercular overtones) as *productive debt* and *productive credit*. Essentially, he argued, if you were going to buy a sewing machine, or a car, or especially a house, then you were going to have to get close to the demonic snake of debt. The only real question was how venomous the snake should be.

Simon Patten, who went on to found the University of Pennsylvania's Wharton School, showed that consumption need not be onerous and that a sense of controlled hedonism is healthy for individuals as well as markets. Veblen, it turned

out, had told only half the story: Sometimes consumption is a path to satisfaction. Even more important, the inability to consume is an almost certain path to unhappiness.

What Seligman, Patten, and others did, in modern parlance, was to show that terms such as *luxury, saving, thrift, necessity,* and the rest were social constructs and that they could be redefined in all sorts of ways. What would happen, for instance, if you called debt *consumer's credit* and aligned it with the morally acceptable *producer's credit*? Seligman knew full well that this was "just" semantics, but he also knew that having the machine-made thing was becoming central to the creation of self.

There is, to be sure, a crucial difference between "buy now, pay later" and "pay as you use." There is wise debt and foolish debt. In fact, Seligman argued that you can actually view some debt as a kind of savings. "The ultimate aim of all economic activity," he argued, "was the 'production' of satisfactions." Debt, he pointed out, was often an efficient shortcut to satisfaction. (Try buying a house in cash sometime.)

This is Puritan heresy, of course, but capitalist truth. Let's return to the cover art and ponder an irony worthy of note—and one lost on those who dislike "luxuries." These things are within reach of Missy and Buck not because of their willingness to go into debt in order to have them but because of the willingness of others to do it first.

Take any of those heavenly objects—the washer/dryer, for instance. At first, this object was obtainable only by the rich. All you have to do is look at early advertising and you will see that the machinery is positioned as something the maid can use not for herself but for her employer. Thanks to mass production and mass marketing, unit costs decrease and the retail price falls. Eventually, Missy and Buck can get in on the act. They may have to borrow to do it but, if they do, the price may go lower still. Those kids of theirs—the ones currently playing baseball and the piano and being pushed in the pram—will pay even less for even better versions. (See "Buying Time," August/September 1998.)

This is a story, of course, not told by the thrift-minded critics. There is a weird kind of welfare system at work in the heart of a market economy. Name the current "necessity"—indoor plumbing, telephone, refrigeration, automobile, and especially the single-family house itself—and you will see that not only was it introduced as a luxury item, but that it was often financed by—aargh!—that Janus-faced god, consumer debt.

Since we usually are treated to only the bad side of that deity, Lendol Calder is to be commended for showing us the other side—the side that, more often than not, has made Missy and Buck's dream possible. The myth that consumer debt is evil is as suspect as the bromide that you can't judge a book by its cover.

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Going Global

By Kanchan Limaye

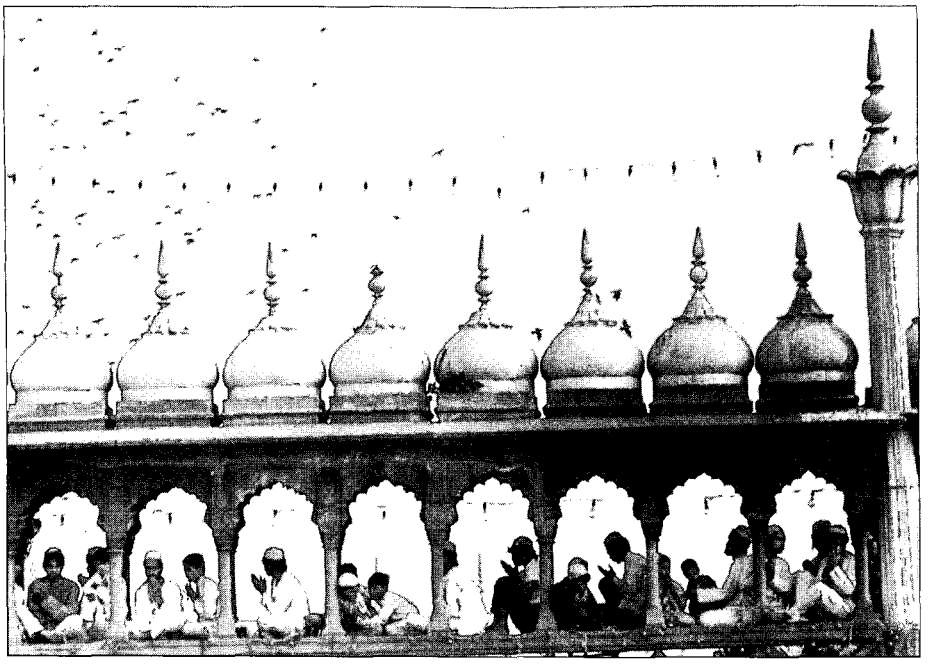
The Ground Beneath Her Feet, by Salman Rushdie, New York: Henry Holt and Co., 575 pages, $27.50

The Ground Beneath Her Feet is, for all its flaws, one of the hippest novels of our time. Salman Rushdie has written—or has he composed?—a pun-filled MTV rockumentary. An inventive, gargantuan love story whose prose pulsates with enough rhythm to make your foot tap, the novel chronicles the rocky love affair between partial divinity Vina Apsara, a legendary half-Indian, half-Greek pop singer, and Ormus Cama, her part-divine musician soul-mate. Together, they form a band called VTO that becomes the most famous rock act in the world.

The novel retells the myth of Orpheus and Eurydice in pop-cultural terms that sometimes border on the ludicrous: Ormus actually takes an "Into the Underworld" tour to find Vina, who has been swallowed by an earthquake. Narrated by the photographer Rai, a mortal wistfully obsessed with Vina, the epic romance of Ormus and Vina thunders its way through the cosmopolitan Bombay of the 1950s and the vivid London of the 1960s, only to fester capriciously in frenzied contemporary Manhattan and then plummet into oblivion and eternal grief. (Rushdie was never one to lack drama.) The plot hurtles unstoppably forward, save for a few wearying riffs on the history of rock 'n' roll and the music business, and several blathering passages on love, art, and death. Ultimately, the plot overruns a deeper, subtler examination of the characters' inner lives.

Vina is a formidable hybrid of bombshell rock star—à la Madonna/Whitney Houston/Courtney Love—and goddess—à la (according to Rushdie) Helen/Eurydice/Sita/Rati/Persephone. Her young lover Ormus, a visionary blessed and cursed with the capacity to see into worlds parallel to our own—a gift that drives him mad—is a sexy, hip-gyrating, Indian combination of Elvis, John Lennon, and Dylan, with an Orphic fate thrown in to sweeten the pot. (Fashion designer Sandy Dalal comes to mind for the movie role.)

Inventive, ambitious, and complex, Rushdie's novel speaks to the cosmopolitan experience of his audience. Cultures begin fusing from page one and continue mutating until the end. The novel depicts a world in which Mullens Standish, a once-married homosexual radio pirate with two children, can be found in the same scene as a bullock-driving, lunghi-wearing Indian country farmer. It is a world in which Ormus' father, Sir Darius Cama, an end-of-the-empire Anglophile barrister, devotes his later life to unearthing the similarities between Homeric and Indian myth. It is a world where Sam's Pleasure Island, a popular unwinding joint for music business honchos that doubles as a sci-fi dys-



Passage from India: In the most stunning, moving passage in his novel *The Ground Beneath Her Feet*, Rushdie's narrator bids India a passionate farewell and embraces global culture.

topia, resembles the intergalactic bar in the original *Star Wars*—complete with space gods born on Martian asteroids. It is a place where Ormus, a Bombay-born-and-bred musician, flies to London wearing black European hipster jeans, but also a Yankees baseball cap and a cutaway Beat-generation T-shirt, as if to announce, "old England cannot hold me, it may pretend to be swinging but I know it's just plain hanged. Not funky but defunct. History moves on."

Rushdie follows up on that thought with a brilliant passage that reads—or rather sings—like a rock 'n' roll love paean to America's self-inventing chaos, complete with the yikitaka-yikitaka and boom-chicka-booms of Ormus' drum-beat-laden inner voice: "The Polish dances, the Italian weddings, the Zorba-slithering Greeks. The drunken rhythm of the salsa saints. The cool music that heals our aching souls, and the hot democratic music that leaves a hole in the beat and makes our pants want to get up and dance....Yay, America. Play it as it lays."

Ormus passes for Jewish, Italian, Spanish, Roman, French, Latin American, "Red" Indian, and Greek. "Race itself seems less of a fixed point than before," he notes upon arriving in Manhattan. And Rai observes, "Here he is at the frontier of the skin." Ormus and Vina's music crosses all frontiers, rising above the limits of family, clan, nation, and race and flying over the minefields of turf and taboo. Though Ormus has always hoped that humans would rub out the color line—not just cross it—it is Vina who ultimately brings about this larger sense of global kinship. Upon her death, mourners on the front lines of the world's armed conflicts lay down their weapons to embrace.

Throughout the novel, Rushdie satirizes and celebrates American consumerism, showing us the wonder and absurdity of the "late capitalism" we take for granted as Americans. We eventually see Vina-Divina cheapened (and made wealthy) as Vina–Martha Stewart, complete with a best-selling diet book, celebrity exercise videos, and "Vina's Vege Table" organic meal series. When Vina dies, the American consumer machine cashes in. Scandals come to light under frenzied radio, TV, and press coverage. Drama and music critics immediately hold public panels. Then come the retrospectives, tribute albums, charitable donations, and memorial concerts. Gary Larson draws Vina's cartoon. Feminists, intellectuals, priests, cultural studies gurus, and psychoanalysts all weigh in on the Vina phenomenon. TV producers look for Vina look-alikes. Ironically, Rushdie himself has written a story worthy of a blockbuster marketing push: Bono has already set a movie soundtrack title song, "The Ground Beneath Her Feet," to music for U2's next album.

Rushdie's words aren't always as catchy as his tune, however. His main goal, he has said, was to write a love story, but the circumstances he designs make for an unbelievable one. His characters often lack comprehensible motive, which makes it hard to care much about them. For example, Rushdie provides no good explanation for Ormus' absurd 10-year vow of no-touch celibacy after Vina initially refuses to marry him, apart from bitter whimsy. (You're making me wait 10 years for marriage? Fine, I'll make you wait 10 years for even a caress.)

Then again, since Ormus and Vina are part-god, and as selfish, capricious, and temperamental as gods often are in ancient myth, maybe they're supposed to be exempt from the laws of motive that govern human character. But does this exempt Rushdie from the laws that govern human writers? Rushdie has tried to write a myth, but is this an achievable ambition for a single mortal? His efforts to squeeze human sentiment out of the predicaments of nonhuman characters often result in only tepid effects.

Worse, the supernatural incidents and metaphysical ramblings in the book seem to come not from a coherent worldview but from a confused and faithless one. Rai calls himself a skeptic/rationalist but turns out to be more superstitious than anyone by the end of the story, when he confides to the reader that he's convinced it was Vina who shot Ormus dead, explaining that Vina must have risen from the dead to kill her lover so they could be together in the Underworld.

Rushdie does capture the beauty of a love based on the mutual adoration of an art form. In this case, Vina and Ormus' love grows out of their mutual passion for

AP / WIDE WORLD PHOTO

music. The couple's shared knowledge of rock music, its lingo, its history, and its most inspiring artists creates a special form of intimacy between them that they don't trouble to explain to others. Any couple that shares a driving passion, whether it be for music or medicine or literature, will recognize this unique form of intimacy.

But Rushdie's choice of a first-person narrator as the left-out third of the love triangle ultimately stunts the emotional power of his story. The author speaks too transparently through Rai, a character similar to Saladin in *The Satanic Verses*, the Moor in *The Moor's Last Sigh*, and his other alter-ego narrators. Rai seems to speak for Rushdie when he explains how he "worships the God of the imagination," "has a hole inside where God could be," and gives in to postmodern pessimism: "The modern family is our shelter against terror and despair." At such transparent moments, Rushdie's Rai-mask falls off and all we're left with is the artless.

Toni Morrison has lauded *The Ground Beneath Her Feet* as a "global novel." That's a concept worth pondering: What exactly is a "global novel"? And who are the global novelists? On its surface, the term would seem to describe the work of those writers with mixed cultural backgrounds who seem not to fit into any of the usual modern regional traditions. Whole schools of "post-colonial" literature have arisen at the end of the century featuring novelists who draw on mixed cultural sources. This is especially apparent among Indian and Asian authors: the Seth/Ghosh/Tharoor/Roy/Amit Chaudhuri/Kiran Desai/Diva-karuni Indian expatriates who have earned their fame in the West by writing about an exoticized East. And there's the P.C.-obsessed "Asian-American"/diaspora writer tradition, the Amy Tan/Bharati Mukherji/Jhumpa Lahiri types, whose reputations have come from writing about American encounters between East and West.

Some readers may encounter a novel about expatriate displacement, or one that hops from place to place and produces a vague feeling of internationalism, and see "globalism." Such novels surely have their merits, but they are about the opposite of globalism: They are about difference. "Globalism," if the idea is to describe anything, is about cultural melding; about dynamic syncretism. At their core, such works are not merely geographically diffuse. On the contrary, they draw their strength from highly specific contexts of places and cultures in flux. (And if, in the end, they transcend the specific details of their settings to recognize the timeless elements of human nature amid such flux, then they are truly successful in their globalism.)

Cultural syncretism is at the core of Rushdie's work, and especially so in this latest novel. Yet the manner in which he has chosen to tell his story undercuts the power of his theme. Rushdie's thematic globalism is nearly undone by his stylistic postmodernism.

Critics have grouped Rushdie among those artists that turn the multicultural and hybrid into an entire aesthetic. But an aesthetic that is bound by the rigidities of a perishable, voguish political ideology risks inherent limitations, and Rushdie's novel falls prey to them. His use of a gimmick-ridden postmodern style, with characters who can talk about their identities only in terms of "constructing themselves," threatens the subtle, meditative art of the novel by revealing the skeleton of his work, if not of his very imagination. In the course of so much self-conscious allusion making, his characters often come across as cartoonish cutouts.

Sometimes, Rushdie's own characters seem to have concluded that postmodernism is no longer a fertile aesthetic, so maybe this novel documents his own realization of its limitations. At one point, Rai says, "We've reached the point in the century when we must eschew all ironic communication." Later he says, "Lead us not into exotica, deliver us from the nostalgic." He understands the global: "A kind of India happens everywhere, that's the truth too; everywhere is terrible and wonder-filled and overwhelming if you open your sense to the actual pulsating beat." He notes the similarity between Bombay's amputees and "the many mutilations of soul to be found on New York street corners." In Ormus, Rushdie has created an artist who (at least for the term of this novel) is more successful than himself in manifesting globalism. An irritated Ormus asks the category-happy record producer Voight, "Do I have to be a color? Can't we get beyond, finally, I mean can't we get under our skins." The other side of the same paradox is that Rushdie's book ultimately bends to the very notions it satirizes, and he begins to resemble the jargony professors and sound bite makers he ridicules.

Rushdie no longer needs to draw attention to "mongrelization" as the appealingly risqué exception to the norm of our present condition. Cultural fusion in this novel is the natural state of things, and he writes of it as the everyday occurrence it has become.

Yet, to give him credit, Rushdie can sometimes make the approach work. Here is the most moving passage in the novel, in which Rai (probably speaking for Rushdie) bids India a stunningly passionate farewell, as if he's divorcing a much-loved wife: "My home is burned, my parents dead, and those I loved have mostly gone away....I go—I hunt—alone....Oh, why must everything I say end up sounding like a...goddamn cheap Bollywood song? Very well, then...India, my terra infirma, my maelstrom, cornucopia, my crowd. India, my Hug-me, my fable, my mother, my father, and my first great truth. It may be that I am not worthy of you, for I have been imperfect, I confess. I may not comprehend what you are becoming, what perhaps you already are, but I am old enough to say that this new self of yours is an entity I no longer want, or need, to understand. India, fount of my imagination, source of my savagery, breaker of my heart. Goodbye." He calls the chapter "The Decisive Moment."

Not surprisingly, the material that Rushdie is currently contemplating is set solely in the West. His farewell comes after several famous novels set in India, includ-

Censory Deception

Conservatives' foolish case for regulating speech

By Thomas W. Hazlett

"As a nation we are concerned about pollution, about pure air and water. ...Is there no such thing as moral pollution?" So inquires political scientist David Lowenthal in his recent *Weekly Standard* cover story, "The Case for Censorship." Three of four conservative thinkers responding to the provocative piece (William J. Bennett, Terry Eastland, and Irving Kristol) were dubious on implementation issues but applauded Lowenthal for thinking outside the box. Lowenthal's not exactly breaking new ground on the right, of course. Back in his 1996 book, *Slouching Towards Gomorrah*, Robert Bork asked, "Is censorship really as unthinkable as we all seem to assume?"

All these large visionaries ruminate on the depths to which Madonna and *Lethal Weapon 4* have taken us, displaying unmistakable affection for strict legal limits on expression. Yet they ignore the ghastly ways in which official censorship has functioned in the good old U.S. of A.

Regulation of radio and TV—media licensed according to "public interest, convenience, or necessity" by the Federal Communications Commission—brutally demonstrates that federal regulators will indeed restrict expression, though perhaps in ways conservatives might find unappealing. Time and again, lowest-common-denominator programming has been protected at the expense of the informative or innovative. For instance, the FCC suppressed cable TV for many years—call this a federally mandated "silence of the Lamb," in deference to Brian Lamb, creator of C-SPAN, the network that has done more to open the democratic process to daylight than a thousand "sunshine" laws. Only with deregulation were niche cable networks able to blossom. Given that Newt Gingrich started the congressional Republicans' long march out of the wilderness by giving special-order speeches on C-SPAN, you might think that conservatives, of all people, would understand how they were stymied by censorship.

You might also think that they would recall the notorious Fairness Doctrine, which was used to "harass and intimidate" right-wing radio broadcasts, in the words of one unabashed Kennedy-Johnson operative. When that censorious policy was ended in 1987 by former broadcaster Ronald Reagan, there was an explosion of talk formats that gave voice to popular concerns (for a while, Rush Limbaugh even billed himself *as* equal time).

In short, the censorship our conservative commissars sorely desire and soaringly extol has long been with us—and has long been used to suppress their own views. But Lowenthal wipes the slate clean, condemning the extant system "where a few hidden figures in movie studios and television networks, motivated primarily by profit, decide what will be available for our viewing." He buttresses his quaint attack upon the market system in entertainment services by invoking Al Gore's favorite regulatory premise, the externality. Bad programming, says Lowenthal, spews costs on third parties like so much car exhaust. Bork attacks the "libertarian virus" that infects "free market economists...[who] ignore the question of which wants it is moral to satisfy."

The censorship our conservative commissars sorely desire and soaringly extol has long been with us—and has long been used to suppress their own views.

Such claims are simply incorrect; to suggest that ordering up an adult flick on pay per view harms innocent third persons is nonsense. And free market economists are quite explicit about their belief in "consumer sovereignty." That is, individuals should be free to decide what they consume so long as that consumption does not require the curtailment of another's freedom. Strangely, Lowenthal and Bork deliver conservatives to the altar of collectivism, upon which they sacrifice individual responsibility.

Alas, the cons face another problem: As American culture got raunchier in the 1990s, violent crime rates plummeted, even among kids (hmm, could increased incarceration of criminals have been a factor?). Across the world, societies enjoying American audio and video do not uniformly suffer from the experience. The street-safe Japanese, for instance, devour American movies—and supplement our own blood-and-guts exports with domestic products that jack up the sex-and-violence quotient to levels that would make Oliver Stone cringe.

As sweeping economic changes transform the information options available to Americans, conservatives seem bewildered by the moment. "It's enough to make one a Luddite," exclaims Bork. An odd reaction, that. And one that the late Ithiel de Sola Pool had already countered in his 1983 classic, *Technologies of Freedom: On Free Speech in an Electronic Age.* Wrote de Sola Pool, "The democratic impulse to regulate evils, as Tocqueville warned, is ironically a reason for worry....The easy access, low cost and distributed intelligence of modern means of communication are a prime reason for hope."

Conservative intellectuals see this wave coming and, rather than scrambling to ride it, try to hold it back. Bad strategy. Surf's up, and the War of Ideas is now happening on Channels 279 to 437.

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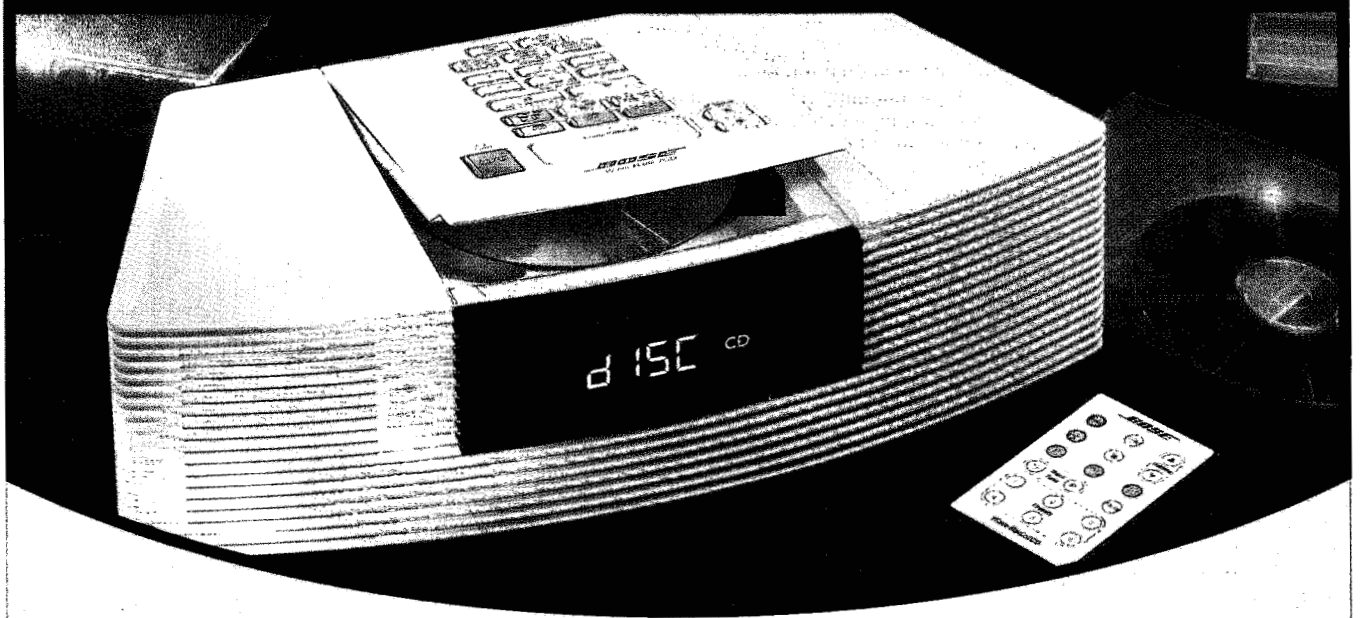
Encore.



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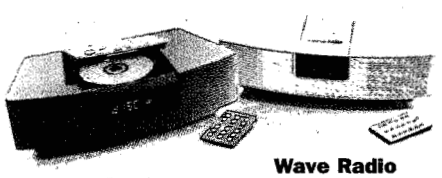

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